

Office of Parliamentary Counsel Enterprise Agreement 2024–2027

Acceptance of agreement

This agreement is made under section 172 of the *Fair Work Act 2009*. By signing below, the parties to this agreement signify their agreement to its terms.



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Employer

13 February 2024

Date



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Employee Bargaining Representative

13 February 2024

Date

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Section 1—Technical matters

Division 1—Technical matters

1 Title

This agreement is the *Office of Parliamentary Counsel Enterprise Agreement 2024–2027*.

2 Parties to the agreement

This agreement covers:

- (a) the First Parliamentary Counsel, for and on behalf of the Commonwealth of Australia as the employer;
- (b) all employees in the Office of Parliamentary Counsel employed under the PS Act, other than Senior Executive Service employees or equivalent; and
- (c) subject to notice being given in accordance with section 183 of the FW Act, the Community and Public Sector Union which was a bargaining representative for this agreement.

3 Operation of the agreement

- (1) This agreement will commence operation seven days after approval by the Fair Work Commission.
- (2) This agreement will nominally expire on 28 February 2027.

4 Variation of the agreement

This agreement may only be varied in accordance with the FW Act.

5 Delegations

FPC may delegate to or authorise any person to perform any or all of FPC's powers or functions under this agreement, including the power of delegation, and may do so subject to conditions.

6 National Employment Standards (NES) precedence

The terms of this agreement are intended to apply in a manner that does not derogate from the NES. The NES will continue to apply to the extent that any term of this agreement is detrimental to an employee of OPC in any respect when compared with the NES.

7 Closed comprehensive agreement

- (1) This agreement states the terms and conditions of employment of employees covered by this agreement, other than terms and conditions applying under relevant Commonwealth laws.
- (2) This agreement will be supported by policies and guidelines, as implemented and varied from time to time.

- (3) Policies and guidelines are not incorporated into and do not form part of this agreement. To the extent that there is any inconsistency between policies and guidelines and the terms of this agreement, the terms of this agreement will prevail.

8 Individual flexibility arrangements

- (1) OPC and an employee covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- (a) the agreement deals with one or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) remuneration;
 - (vi) leave and leave loading; and
 - (b) the arrangement meets the genuine needs of OPC and the employee in relation to one or more of the matters mentioned in paragraph (1)(a); and
 - (c) the arrangement is genuinely agreed to by OPC and the employee.
- (2) OPC must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the FW Act;
 - (b) are not unlawful terms under section 194 of the FW Act; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- (3) OPC must ensure that the individual flexibility arrangement:
- (a) is in writing;
 - (b) includes the name of OPC and the employee;
 - (c) is signed by OPC and the employee and, if the employee is under 18 years of age, signed by a parent or guardian of the employee;
 - (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement;
 - (ii) how the arrangement will vary the effect of the terms;
 - (iii) how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- (4) OPC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) OPC or the employee may terminate the individual flexibility arrangement:
- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if OPC and the employee agree in writing—at any time.
- (6) OPC and the employee are to review the individual flexibility arrangement at least every 12 months.

Division 2—Definitions

9 Definitions

The following definitions apply to this agreement:

2PC means a Second Parliamentary Counsel.

agreement means the *Office of Parliamentary Counsel Enterprise Agreement 2024–2027*.

APC 1 means Assistant Parliamentary Counsel Grade 1.

APC 2 means Assistant Parliamentary Counsel Grade 2.

APC 3 means Assistant Parliamentary Counsel Grade 3.

APS means the Australian Public Service.

APS agency means an agency whose employees are employed under the PS Act, including an agency as defined in section 7 of the PS Act whose employees are employed under that Act.

APS consultative committee means the committee established by the APS Commissioner to consider matters pertaining to the (APS) employment relationship and of interest to the APS as a whole.

Australian Defence Force Cadets means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

bandwidth means the span of hours during which an employee can perform ordinary hours.

broadband refers to the allocation of more than one approved classification by FPC to a group of duties involving work value applying to more than one classification under subrule 9(4) of the *Public Service Classification Rules 2000*. A broadband encompasses the full range of work value of the classifications contained within it.

casual (irregular or intermittent) employee means an employee engaged under paragraph 22(2)(c) of the PS Act who:

- (a) is a casual employee as defined by the FW Act; and
- (b) works on an irregular or intermittent basis.

child means a biological child, adopted child, foster child, step child, or ward.

classification or **classification level** means the approved classifications set out in rule 5 of the *Public Service Classification Rules 2000*.

de facto partner means a person who, regardless of gender, is living in a common household with the employee in a bona fide, domestic, interdependent partnership, although not legally married to the employee. This includes a former de facto partner.

delegate means someone to whom a power or function has been delegated.

dependant of an employee means the employee's spouse or de facto partner, a child, parent or aged relative of the employee or the employee's spouse or de facto partner, who ordinarily lives with the employee and who is substantially dependent on the employee.

Dependant of an employee also includes a child of the employee who does not ordinarily

live with the employee but for whom the employee provides substantial financial support.

employee means an employee of the Commonwealth engaged under subsection 22(2) of the PS Act who is covered by this agreement (whether full-time, part-time or casual, ongoing or non-ongoing).

employee representative means a person (whether an employee or not) elected or chosen by an employee, or elected or chosen by a group of employees in a workplace, to represent the individual and/or collective views of those employees in relation to a matter under this agreement.

family of an employee means:

- (a) a spouse, former spouse, de facto partner or former de facto partner of the employee;
- (b) a child, parent, grandparent, grandchild or sibling of the employee;
- (c) a child, parent, grandparent, grandchild or sibling of a spouse, former spouse, de facto partner or former de facto partner of the employee;
- (d) a member of the employee's household; or
- (e) a person with whom the employee has a relationship of traditional kinship where there is a relationship or obligation, under customs and traditions of the community or group to which the employee belongs.

family and domestic violence has the same meaning as in subsection 106B(2) of the FW Act.

full-time employee means an employee employed to work an average of 37 hours and 30 minutes per week in accordance with this agreement.

FPC means First Parliamentary Counsel.

FW Act means the *Fair Work Act 2009* as amended from time to time.

indexation factor has the meaning given by clause 30.

indexation period has the meaning given by clause 30.

manager means an employee's direct manager who is usually the person to whom an employee reports on a day-to-day basis for work related matters, and may include a person referred to as a supervisor.

ML Act means the *Maternity Leave (Commonwealth Employees) Act 1973* as amended from time to time and any successor legislation.

NES means the National Employment Standards under Part 2-2 of the FW Act.

non-ongoing employee means an employee engaged under paragraph 22(2)(b) of the PS Act for a specified term or for the duration of a specified task, and consistent with the FW Act.

normal bandwidth means the span of hours specified in subclause 38(3) (7.00 am to 7.00 pm, Monday to Friday).

ongoing employee means an employee engaged under paragraph 22(2)(a) of the PS Act.

OPC means the Office of Parliamentary Counsel.

ordinary hours, duty or work means an employee's usual hours worked in accordance with this agreement and does not include additional hours.

Parliamentary Service means employment under the *Parliamentary Service Act 1999*.

partner means a spouse (including a former spouse) or de facto partner (including a former de facto partner).

part-time employee means an employee employed to work less than an average of 37 hours and 30 minutes per week in accordance with this agreement.

personal/carer's leave credit means personal/carer's leave credit accrued under Subdivision A of Division 2 of Section 6.

primary caregiver for the purpose of clause 71 means a pregnant employee with an entitlement under the ML Act, or an employee other than a casual employee who has primary care responsibility for a child who is born to them or who is adopted or in long-term foster care as per subclause 71(12).

PS Act means the *Public Service Act 1999*, as amended from time to time.

registered health practitioner means a person who is registered or licensed as a health practitioner (or a health practitioner of a particular type) under a law of a State or Territory.

relevant employee means an affected employee.

salary barrier means the maximum annual salary payable to an APS Level 6 employee.

secondary caregiver for the purpose of clause 71 means an employee, other than a pregnant employee or casual employee, who has secondary care responsibility for a child who is born to them, or for a child who is adopted or in long-term foster care as per subclause 71(12).

usual location of work for an employee means the office location designated in accordance with clause 96.

Section 2—Remuneration

10 Salary

- (1) Salary rates will be as set out in Attachment A—Salaries and allowances of this agreement.
- (2) The base salary rates in Attachment A include the following increases:
 - (a) 4.0 per cent from the first full pay period on or after 1 March 2024 (14 March 2024);
 - (b) 3.8 per cent from the first full pay period on or after 1 March 2025 (13 March 2025); and
 - (c) 3.4 per cent from the first full pay period on or after 1 March 2026 (12 March 2026).
- (3) In recognition of a common alignment date of 14 March each year, the base salary rates in Attachment A—Salaries and allowances were calculated based on base salary rates as at 31 August 2023.

11 Payment of salary

- (1) Employees will be paid fortnightly in arrears by electronic funds transfer into a financial institution account of the employee's choice, based on their annual salary using the following formula:

$$\text{Fortnightly salary} = \frac{\text{Annual salary} \times 12}{313}$$

Note: This formula is designed to achieve a consistent fortnightly pay rate without significant variability year-to-year. It reflects that the calendar year is not neatly divisible into 26 fortnightly periods. There are 313 fortnightly pay cycles within a 12 year period.

12 Salary for part-time employees

Salary for part-time employees will be calculated on a pro-rata basis.

13 Salary setting

Salary for those engaged by OPC to the APS

- (1) Where an employee is engaged, the employee's salary will be paid at the minimum of the salary range of the relevant classification, unless FPC determines a higher salary within the relevant salary range under these salary setting clauses.

Salary for those converting from non-ongoing to ongoing employment

- (2) Where an employee commences ongoing employment in OPC immediately following a period of non-ongoing employment in OPC for a specified term or task, FPC will determine the payment of the employee's salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a non-ongoing employee in OPC.

Salary for those converting from casual to ongoing employment

- (3) Where an employee commences ongoing employment in OPC immediately following a period of casual employment in OPC, FPC will determine the payment of salary within the relevant salary range of the relevant classification which recognises the employee's prior service as a casual employee in OPC.

Salary for APC 1s

- (4) If admission as a practitioner, however described, of the High Court or the Supreme Court of a State or Territory is a requirement of an employee's role and the employee has been so admitted, an employee engaged to the APS by OPC as an APC 1 will be paid at the higher of:
 - (a) the minimum of the salary range of the relevant classification if the employee has not been admitted as a practitioner, however described, of the High Court or the Supreme Court of a State or Territory;
 - (b) the second salary point of the APC 1 salary range if the employee has been admitted as a practitioner, however described, of the High Court or the Supreme Court of a State or Territory; or
 - (c) a higher salary determined by FPC within the relevant salary range under these provisions.
- (5) If admission as a practitioner, however described, of the High Court or the Supreme Court of a State or Territory is a requirement of an employee's role and an employee who is being paid at the first salary point of the APC 1 salary range gains such admission, the employee will advance to the second salary point of the APC 1 salary range.

Salary for those transferring to OPC

- (6) An employee who is already an APS employee will, on movement to OPC, be paid at the first salary point for the classification that is higher than the employee's salary immediately before joining OPC, unless FPC determines a higher salary within the relevant salary range under these provisions.
- (7) Where an APS employee moves to OPC at level from another APS agency, and their salary is above the maximum of the salary range for their classification, FPC will maintain the employee's salary at that level, until it is absorbed into the salary range for that classification.

Incorrect salary

- (8) Where the OPC determines that an employee's salary has been incorrectly set, FPC may determine the correct salary and the date of effect.

Discretion to determine salary at any time

- (9) FPC may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.

Factors to be taken into account in exercising discretion

- (10) In determining a salary under these provisions, FPC will have regard to a relevant factors including the employee's experience, qualifications and skills.

14 Salary on promotion within OPC

- (1) An employee who is promoted within OPC is to be paid at the first salary point for the classification that is higher than the employee's actual salary immediately before being promoted, unless FPC determines a higher salary within the relevant salary range under these provisions.

Factors to be taken into account in exercising discretion

- (2) FPC may determine the payment of salary at a higher value within the relevant salary range of the relevant classification and the date of effect at any time.
- (3) In determining a salary under these provisions, FPC will have regard to a relevant factors including the employee's experience, qualifications and skills.

15 Incremental advancement

- (1) An employee will be eligible for salary advancement within classifications with effect from each 1 July after the end of a performance management cycle if:
 - (a) the employee is not at the top pay point of their classification;
 - (b) the employee was assigned a satisfactory performance rating during the employee's most recent performance review; and
 - (c) the employee has at least 3 months continuous service at OPC at or above the relevant classification level during the performance management cycle.
- (2) Eligible service for salary progression will include:
 - (a) periods of paid leave and unpaid parental leave;
 - (b) periods of unpaid leave that count as service; and
 - (c) service while employed on a non-ongoing basis.
- (3) FPC may exercise their discretion under subclause 13(9) to determine that an employee receive a higher salary if the employee is not eligible for a salary advancement under subclause (1) of this clause.
- (4) During a period of unpaid parental leave, employees will be eligible to advance a maximum of one increment, regardless of the length of unpaid parental leave.
- (5) Employees who are acting at a higher classification, and satisfy the eligibility requirements in subclauses (1) to (4), will be eligible for salary progression at both their substantive and acting classifications.
- (6) Salary progression while acting at a higher classification, will be retained for future acting duties at, or promotion to, that classification regardless of elapsed time.
- (7) Casual employees will not be eligible for incremental advancement.

16 Temporary performance at a lower level

If an employee requests or agrees, in writing, to temporarily perform work at a lower classification or local designation level, FPC may determine in writing that the employee will be paid a rate of salary applicable to the lower level for the period specified in the request or agreement.

17 Superannuation

- (1) OPC will make compulsory employer contributions as required by the applicable legislation and fund requirements.

- (2) Employer superannuation contributions will be paid on behalf of employees during periods of paid leave that count as service
- (3) OPC will make employer superannuation contributions to any eligible superannuation fund, provided that it accepts payment by fortnightly electronic funds transfer (EFT) using a file generated by OPC's payroll system.

Method for calculating superannuation salary

- (4) OPC will provide an employer contribution of 15.4 per cent of the employee's Fortnightly Contribution Salary (FCS) for employees in the Public Sector Superannuation Accumulation Plan (PSSap) and employees in other accumulation superannuation funds.
- (5) Employer contributions will be made for all employees covered by this agreement.
- (6) Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements.

Payment during unpaid parental leave

- (7) Employer contributions will be paid on periods of unpaid parental leave in accordance with the requirements of the PSSap fund where the employee is a member of the PSSap, and up to a maximum of 52 weeks where the employee is a member of an accumulation fund other than PSSap.

18 Overpayments

- (1) An overpayment occurs if FPC (or OPC) provides an employee with an amount of money to which the employee was not entitled (including but not limited to salary, entitlements, allowances, travel payment and/or other amount payable under this agreement).
- (2) Where FPC considers that an overpayment has occurred, FPC will provide the employee with notice in writing. The notice will provide details of the overpayment.
- (3) If an employee disagrees that there has been an overpayment including the amount of the overpayment, they will advise FPC in writing within 28 calendar days of receiving the notice. In this event, no further action will be taken until the employee's response has been reviewed.
- (4) If after considering the employee's response (if any), FPC confirms that an overpayment has occurred, the overpayment will be treated as a debt to the Commonwealth that must be repaid to OPC in full by the employee.
- (5) FPC and the employee will discuss a suitable recovery arrangement. A recovery arrangement will take into account the nature and amount of the debt, the employee's circumstances and any potential hardship to the employee. The arrangement will be documented in writing.
- (6) OPC and employee may agree to make deduction from final monies where there is an outstanding payment upon cessation of employment.
- (7) Interest will not be charged on overpayments.
- (8) Nothing in subclauses (1) to (7) prevents:

- (a) OPC from pursuing recovery of the debt in accordance with an Accountable Authority Instruction issued under the *Public Governance, Performance and Accountability Act 2013*;
- (b) OPC from pursuing recovery of the debt through other available legal avenues; or
- (c) the employee or OPC from seeking approval to waive the debt under the *Public Governance, Performance and Accountability Act 2013*.

19 Supported wage system

- (1) An employee can get a percentage of the relevant pay rate for their classification in line with their assessed capacity to do the work if they:
 - (a) have a disability;
 - (b) meet the criteria for a Disability Support Pension; and
 - (c) are unable to perform duties to the capacity required.
- (2) Specific conditions relating to the supported wage system are detailed in Attachment B.

20 Salary packaging

Salary packaging (that is, allowing employees to receive part of their remuneration in the form of non-cash benefits) is available to all employees. Detailed arrangements for salary packaging are set out in policy.

Section 3—Allowances and reimbursements

Note: See also clause 52 (expenses—cancellation of leave or recall to duty).

21 Higher duties allowance

- (1) Where a role needs to be filled for one or more working weeks, higher duties allowance will be paid to any employee temporarily occupying the role acting at a classification level higher than their substantive classification level.
- (2) Higher duties allowance will be equal to the difference between the employee's current salary and the salary that would be payable if they were promoted to the higher classification, or a higher amount determined by FPC.
- (3) Where an employee is found to be eligible for salary progression at their acting classification level, they will receive an appropriate increase in the rate of higher duties allowance. The employee's salary level will be retained for all future periods of acting regardless of elapsed time.
- (4) Where an employee is assigned only part of the higher duties, FPC will determine the amount of allowance payable.
- (5) Higher duties allowance will be payable while an employee is acting at a higher classification level as part of a job sharing arrangement where the duration of the arrangement is at least one working week.
- (6) FPC may shorten the qualifying period for higher duties allowance on a case-by-case basis.

22 Workplace responsibility allowances

- (1) A workplace responsibility allowance will be paid where an employee is appointed by FPC, or elected by OPC employees, to one of the following roles:
 - (a) First Aid Officer;
 - (b) Mental Health First Aid Officer;
 - (c) Health and Safety Representative;
 - (d) Emergency Warden;
 - (e) Workplace Support Officer (Harassment Contact Officer).
- (2) An employee is not to receive more than one workplace responsibility allowance unless approved by FPC due to operational requirements.
- (3) The employee will be paid the rate set out in Table C in Attachment A.
- (4) The full allowance is payable regardless of flexible work and part-time arrangements.
- (5) An employee's physical availability to undertake the role will be considered by agencies when appointing and reappointing employees to these roles. This is noting that not all workplace responsibility roles will necessarily require a physical presence in the workplace for the role to be successfully undertaken, such as Harassment Contact Officers, Mental First Aid Officers and Health and Safety Representatives depending on work group arrangements.
- (6) Casual employees who are eligible to receive a workplace responsibility allowance will be paid the full amount (noting the minimum rate), as varied from time to time provided

they engage in work during any given pay cycle, irrespective of the frequency and duration of the work undertaken.

- (7) A workplace responsibility allowance is payable during periods of paid leave.
- (8) The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

23 Community language allowance

- (1) A community language allowance will be paid where FPC determines that an employee is regularly required to use their ability to communicate in Braille or a language other than English (including First Nations languages and AUSLAN) in the course of their work, and the employee meets the required level of competency set by FPC. Further information is included in policy.
- (2) The allowance is paid in accordance with the employee's level of competency as outlined in Table D of Attachment A.
- (3) The allowance is calculated annually and paid fortnightly.
- (4) The full allowance is payable regardless of flexible work and part-time arrangements.
- (5) The allowance is payable during periods of paid leave.
- (6) The allowance counts as salary for superannuation purposes and for calculating retirement and redundancy entitlements.

24 Overtime meal allowance

- (1) If an employee:
 - (a) is required to work overtime; and
 - (b) is entitled to payment for the overtime (including where the overtime is converted into a flex credit);the employee is entitled to an allowance per occasion as set out in Table E of Attachment A.
- (2) This allowance is in addition to any overtime allowance payable under clause 41.
- (3) The full allowance is payable regardless of flexible work and part-time arrangements.

25 Personal motor vehicle use reimbursement

Where:

- (a) FPC is satisfied that the use of a private motor vehicle for official purposes will result in greater efficiency or less expense to OPC; and
- (b) FPC authorises such use;

an employee is entitled to reimbursement of the costs of such use at rates published by the Australian Taxation Office.

26 Loss or damage to clothing or personal effects reimbursement

Where an employee experiences loss or damage to clothing or personal effects that occurs in the course of employment, they are entitled to reimbursement for the loss or damage.

27 Prescription eyewear reimbursement

- (1) If:
 - (a) an employee needs to wear prescribed eyewear in the performance of any work; and
 - (b) the eyewear is prescribed by an optometrist or ophthalmologist;the employee is entitled, every 2 years, to the reimbursement of expenses up to the eyewear amount for the indexation period.
- (2) The *eyewear amount* for an indexation period is:
 - (a) for the period beginning on the day this agreement commences and ending on the first 31 August after that commencement—\$618; and
 - (b) for any later indexation period—the eyewear amount for the previous indexation period, indexed using the indexation factor for the previous indexation period.
- (3) For the purposes of subclause (2), the period referred to in paragraph (2)(a) is taken to be an indexation period.

28 Dependent care cost reimbursement

- If:
- (a) an employee is required to work outside the employee's usual location of work, or outside normal patterns of work;
 - (b) additional family care arrangements are necessary as a result;
 - (c) costs are minimised by employee; and
 - (d) FPC has been given reasonable advance notice by the employee;
- the employee is entitled to the reimbursement of reasonable expenses determined by FPC for the additional arrangements.

29 Semi-official telephone reimbursement

- (1) The occupant of a position determined by FPC who makes their private telephone available for OPC use is entitled to a partial reimbursement of the telephone amount per fortnight for the costs associated with maintaining the telephone connection.
- (2) The *telephone amount* for an indexation period is, subject to subclause (4):
 - (a) for the period beginning on the day this agreement commences and ending on the first 31 August after that commencement—\$43; and
 - (b) for any later indexation period—the telephone amount for the previous indexation period, indexed using the indexation factor for the previous indexation period.
- (3) For the purposes of subclause (2), the period referred to in paragraph (2)(a) is taken to be an indexation period.
- (4) An indexed telephone amount applies to the first fortnight that begins after the start of an indexation period, and to later fortnights that begin in the indexation period.

30 Meanings of *indexation factor* and *indexation period*

- (1) The *indexation factor* for an indexation period is the amount worked out, to 3 decimal places (rounding up if the fourth decimal place is 5 or more), by using the following formula:

$$\frac{\text{Sum of indexation factors for each quarter in the previous indexation period}}{\text{Sum of indexation factors for the quarters in the indexation period immediately before the previous indexation period}}$$

where:

indexation period means a period of 12 months beginning on 1 September.

index number is the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) first published by the Australian Statistician for the quarter.

- (2) If the indexation factor for an indexation period is less than 1, the indexation factor for the indexation period is taken to be 1.

Section 4—Classifications and broadbands

31 Work Level Standards

The APS Work Level Standards continue to operate and describe the work at each of the classification levels in this agreement, consistent with the *Public Service Classification Rules 2000*, made in accordance with section 23 of the PS Act.

32 Broadband structure

OPC uses the following broadbands:

- (a) Broadband A (APS 1 - 3);
- (b) Broadband B (APS 4 - 6); and
- (c) APC 1 (APS 3 - 6).

33 Salary advancement between APS classifications in broadband A and B

- (1) An employee in broadbands listed in paragraphs 32(a) and (b) advances under this clause to a higher classification within the broadband if, and only if:
 - (a) management determines that there is sufficient work at the higher classification and determines that it cannot be performed by people currently at that level; and
 - (b) after management seeks expressions of interest from all staff who could be interested in performing the work, the employee is selected to perform that work; and
 - (c) the employee received a satisfactory performance rating at the end of the most recent performance management cycle.
- (2) The selection of an employee to perform duties will be done by FPC or a panel appointed by FPC.

34 Salary advancement between APS classifications in APC 1 broadband

An APC 1 advances under this clause to a higher classification within a broadband if, and only if, the employee received a satisfactory performance rating at the end of the most recent performance management cycle.

Section 5—Working hours and arrangements

Division 1—Kinds of employment

35 Job security

Commitment to ongoing employment and rebuilding APS capacity

- (1) The APS is a career-based public service. In its engagement decisions, OPC recognises that the usual basis for engagement is as an ongoing APS employee.

Reporting

- (2) Where a consultative committee is in place, OPC will report to the OPC consultative committee on an annual basis, or more frequently if agreed, on the number, duration, classification and location of ongoing, non-ongoing and casual employees engaged by OPC.

Pathways to permanency

- (3) OPC and the APS will comply with the casual conversion provision(s) of the FW Act. In addition, OPC recognises that a proactive approach, including regularly reviewing casual and non-ongoing arrangements, is both a fair and efficient approach to supporting ongoing employment as the usual form of employment.

36 Casual (irregular or intermittent) employment

- (1) A casual (irregular or intermittent) employee is defined in clause 9.
- (2) A decision to expand the use of casual employees is subject to the consultation obligations set out in clause 99 of this agreement.
- (3) OPC will regularly review the working arrangements of casual employees to assess if they are genuinely performing irregular or intermittent duties, and report de-identified outcomes to the consultative committee, where one is in place.
- (4) Remuneration for casual employees is on an hourly basis. A casual employee will receive a 25% loading on the base hourly rate of their classification as set out in this agreement.
- (5) The casual loading is paid in lieu of payment for public holidays not worked, notice of termination of employment, redundancy benefits and all paid leave entitlements, other than leave required by legislation including long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and leave for family and domestic violence support.
- (6) A casual employee will be engaged for a minimum of 3 hours per engagement or will be paid for a minimum of 3 hours at the appropriate casual rate.
- (7) A casual employee who is eligible for a workplace responsibility allowance will be paid the full amount.

37 Non-ongoing employment

- (1) A non-ongoing employee is defined in the definitions section.

- (2) Non-ongoing employees will generally have the same terms and conditions of employment as ongoing employees under this agreement's terms, except:
 - (a) personal/carer's leave accrual at clause 55; and
 - (b) the redundancy provisions at Division 2 of Section 11, subject to subclause (3) of this clause.
- (3) If the non-ongoing employee's contract is not permitted by section 333E of the FW Act, then the redundancy provisions at Division 2 of Section 11, will apply.
- (4) If the redundancy provisions apply to an employee under subclause (3), OPC must adhere to the consultation requirements at clause 99.

Division 2—Arrangements relating to working hours

38 Working hours

- (1) The standard hours of work are 8.30 am until 12.30 pm and 1.30 pm until 5.00 pm Monday to Friday. This is 7 hours and 30 minutes per day or 37 hours and 30 minutes per week.
- (2) For the purposes of section 62 of the FW Act (maximum weekly hours), the parties to this agreement agree that standard hours will be averaged over successive 6 month periods beginning on 1 January and 1 July. A manager may request or require an employee to work reasonable additional hours (within the meaning of section 62 of the FW Act).

Note: See also section 92 (which deals with workloads).

- (3) The span of hours during which employees may work normal hours (normal bandwidth) is 7.00 am to 7.00 pm Monday to Friday. However, an employee on flex-time may only work normal hours in the periods from 7.00 am to 8.00 am and 6.00 pm to 7.00 pm with the express prior approval of their manager.
- (4) Employees must take a meal break of at least 30 minutes after working continuously for a 5 hour period.

39 Flex for APS 1–6 classifications etc.

- (1) Employees (including part-time employees) performing duties in positions at APS Levels 1–6, and APC 1 employees (except APC 1 employees whose annual salary is above the salary barrier), are entitled to flex-time.
- (2) The flex-time system will provide for a 4 week settlement period. An employee may carry over a flex-time credit of up to 25 hours, or a debit of no more than 10 hours, between settlement periods. An employee may, with approval, take up to 5 days off as flex-time in any single settlement period.

40 Executive Level Time Off in Lieu (TOIL)

- (1) Executive level employees, and APC 1, APC 2 and APC 3 employees (except APC 1 employees whose annual salary is equal to or below the salary barrier), (**EL employees**) are sometimes required to work reasonable additional hours. Consistent with the NES, EL employees may refuse to work unreasonable additional hours.
- (2) EL employees seeking to access time off in lieu (**TOIL**) are required to keep records of their working hours using a method determined by OPC.
- (3) A manager is to grant TOIL in recognition of reasonable additional hours worked. TOIL granted to employees can be taken as whole or part days.
- (4) The working arrangements for an EL employee should be agreed through discussion between the manager and the EL employee. The discussion should include consideration of the work requirements that will safely get the job done and reasonably allow the employee to balance their work and personal life.
- (5) An EL employee's working arrangements and actual hours worked should be discussed on at least a quarterly basis between the EL employee and their manager.

- (6) The pattern of hours is to be flexible enough to accommodate short term peaks and troughs in workload, and include expected reasonable additional hours. The agreed pattern of hours is to be recorded.
- (7) Requests from EL employees to access flexible time off which are consistent with their agreed working arrangements are to be supported, subject to operational requirements.

41 Overtime payments

General provisions

- (1) Overtime is payable for work performed by APS 1 to 6 Level employees, and APC 1 employees whose annual salary is equal to or below the salary barrier, at the direction or initiation of their manager:
 - (a) outside the normal bandwidth;
 - (b) on a public holiday; or
 - (c) in excess of 10 hours in a single day.

Note: An employee may not be entitled to overtime if the employee works an alternative span of hours regularly (see subclause 42(28)) or substitutes a public holiday (see subclause 46(5)).

- (2) Overtime duty is payable at the rates, and for the minimum period of hours, set out in the following table:

Circumstances of overtime	Rate at which overtime duty is payable	Minimum period of hours
Monday to Friday (outside normal bandwidth hours or in excess of 10 hours)	Time and a half for the first 3 hours worked each day and double time after that	1
Saturday	Time and a half for the first 3 hours worked each day and double time after that	2
Sunday	Double time for each hour worked	2
Any day (except a public holiday) where the employee is required to attend the office outside normal bandwidth hours	Double time for each hour worked (which includes time spent travelling to or from the office)	2
Public holidays (within standard hours of work)	Time and a half for each hour worked, in addition to the single time being paid for the public holiday	4
Public holidays (outside standard hours of work)	Double time and a half for each hour worked	4

- (3) If an employee works overtime, they will be entitled to an 8 hour break, plus reasonable travelling time, before recommencing work, without incurring any loss of pay. If this break is not possible due to operational requirements, the employee will be paid double time until they have such a break.
- (4) An employee who would be entitled to payment for overtime may, with the approval of their manager, convert the overtime into a flex credit at the same rate, and the applicable minimum number of hours, at which overtime payment would have been available (e.g. time that would be paid for at double-time rates may be converted into double flex credits).
- (5) The ordinary time hourly rate for the payment of overtime is worked out on the basis that ordinary full-time salary is payable for 37 hours and 30 minutes work per week.

Part-time employees

- (6) Subject to subclause (7), APS 1 to 6 Level employees, and APC 1 employees whose annual salary is equal to or below the salary barrier, are entitled to overtime for the following duty worked at the direction of their supervisor:
 - (a) all duty performed which is not continuous with the employee's ordinary hours of work;
 - (b) all extra duty performed on any day which is continuous with the employee's ordinary hours of work, where some or all of the extra duty falls outside the normal bandwidth and where the employee also completes the normal hours of work on that day;
 - (c) all duty performed which is continuous with the employee's ordinary hours of work and which falls wholly within the normal bandwidth but which exceeds, in any one week, that employee's approved number of part-time hours;
 - (d) all duty in excess of 10 hours in a single day.
- (7) Part-time employees are not entitled to overtime, but are entitled to be paid at their normal time hourly rate, for the duty mentioned in subclause (6) if:
 - (a) the duty is performed within the normal bandwidth;
 - (b) before the week in which the duty is performed, the employee volunteers to perform the duty; and
 - (c) the employee agrees that this subclause will apply to the duty.

Note: This subclause is intended to cover situations where a part-time employee willingly agrees to work additional hours, or on additional days, for a specified period. An employee cannot be required to perform duty under this subclause without their agreement.

42 Flexible working arrangements

- (1) OPC, employees and their union recognise:
 - (a) the importance of an appropriate balance between employees' personal and working lives, and the role flexible working arrangements can play in helping to achieve this balance;
 - (b) access to flexible work can support strategies to improve diversity in employment and leadership in the APS;
 - (c) access to flexible work supports APS capability, and can assist in attracting and retaining the employees needed to deliver for the Australian community, including employees located at a wider range of locations;
 - (d) that flexibility applies to all roles in OPC, and different types of flexible working arrangements may be suitable for different types of roles or circumstances; and
 - (e) requests for flexible working arrangements are to be considered on a case-by-case basis, with a bias towards approving requests.
- (2) OPC is committed to engaging with employees and their union to build a culture that supports flexible working arrangements across OPC at all levels. This may include developing and implementing strategies through an agency consultative committee.
- (3) Flexible working arrangements include, but are not limited to, changes in hours of work, changes in patterns of work and changes in location of work.

Requesting formal flexible working arrangements

- (4) The following provisions do not diminish an employee's entitlement under the NES.
- (5) An employee may make a request for a formal flexible working arrangement.

- (6) The request must be:
 - (a) be in writing;
 - (b) set out details of the change sought (including the type of arrangement sought and the proposed period the arrangement will operate for); and
 - (c) set out the reasons for the change, noting the reasons for the change may relate to the circumstances set out at subsection 65(1A) of the FW Act.
- (7) FPC must provide a written response to a request within 21 days of receiving the request.
- (8) The response must:
 - (a) state that FPC approves the request and provide the relevant detail in subclause (9);
 - (b) if following discussion between OPC and the employee, OPC and the employee agree to a change to the employee's working arrangements that differs from that set out in the request—set out the agreed change; or
 - (c) state that FPC refuses the request and include the following matters:
 - (i) details for the reasons of refusal;
 - (ii) set out OPC's particular business grounds for refusing the request, and explain how those grounds apply to the request;
 - (iii) either:
 - (A) set out the changes (other than the requested change) in the employee's working arrangements that would accommodate, to any extent, the employee's circumstances outlined in the request and that OPC would be willing to make; or
 - (B) state that there are no such changes;
 - (iv) state that a decision to refuse the request, or failure to provide a written response within 21 days, is subject to:
 - (A) the dispute resolution procedures of the enterprise agreement; and
 - (B) if the employee is an eligible employee under the FW Act—the dispute resolution procedures outlined in sections 65B and 65C of the FW Act.
- (9) Where FPC approves the request this will form an arrangement between FPC and the employee. Each arrangement must be in writing and set out:
 - (a) any security and work health and safety requirements;
 - (b) a review date (subject to subclause (13)); and
 - (c) the cost of establishment (if any).
- (10) FPC may refuse to approve the request only if:
 - (a) OPC has discussed the request with the employee;
 - (b) OPC has genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for refusal);
 - (c) OPC and the employee have not reached such an agreement;
 - (d) OPC has had regard to the consequences of the refusal for the employee; and
 - (e) the refusal is on reasonable business grounds.
- (11) Reasonable business grounds include, but are not limited to:
 - (a) the new working arrangements requested would be too costly for OPC;
 - (b) there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested;

- (c) it would be impractical to change the working arrangements of other employees, or to recruit new employees, to accommodate the new working arrangements requested;
 - (d) the new working arrangements requested would be likely to result in a significant loss in efficiency or productivity;
 - (e) the new working arrangements requested would be likely to have a significant negative impact on customer service; and
 - (f) it would not be possible to accommodate the working arrangements without significant changes to security requirements, or where work health and safety risks cannot be mitigated.
- (12) For First Nations employees, OPC must consider connection to country and cultural obligation in responding to requests for altering the location of work.
- (13) Approved flexible working arrangements will be reviewed by OPC and the employee after 12 months, or a shorter period, if agreed by the employee. This is to ensure the effectiveness of the arrangement.

Varying, pausing or terminating flexible working arrangements

- (14) An employee may request to vary an approved flexible working arrangement in accordance with subclause (6). An employee may request to pause or terminate an approved flexible working arrangement.
- (15) FPC may vary, pause or terminate an approved flexible working arrangement on reasonable business grounds, subject to clause (17).
- (16) OPC must provide reasonable notice if varying, pausing or terminating a flexible working arrangement without the agreement of the employee, having regard to the circumstances of the employee. Exceptions to this requirement are urgent and critical operational circumstances or an employee's demonstrated and repeated failure to comply with the agreed arrangements.
- (17) Prior to FPC varying, pausing or terminating the arrangement under subclause (15), OPC must have:
- (a) discussed with the employee their intention to vary, pause or terminate the arrangement with the employee;
 - (b) genuinely tried to reach an agreement with the employee about making changes to the employee's working arrangements to accommodate the employee's circumstances (subject to any reasonable business grounds for alteration);
 - (c) had regard to the consequences of the variation, pause or termination for the employee;
 - (d) ensured the variation, pause or termination is on reasonable business grounds; and
 - (e) informed the employee in writing of the variation, pause or termination to the approved flexible working arrangement, including details set out in subclause (8).

Working from home

- (18) OPC will not impose caps on groups of employees on the time that may be approved to work from home or remotely, with each request to be considered on its merits.
- (19) OPC may provide equipment necessary for, or reimbursement, for all or part of the costs associated with establishing a working from home arrangement.
- (20) An employee working from home is covered by the same employment conditions as an employee working at an office site under this agreement.

- (21) OPC will provide employees with guidance on working from home safely.
- (22) Employees will not be required by OPC to work from home unless it is lawful and reasonable to do so. This may include where circumstances prevent attendance at an office during a pandemic or natural disaster. In these situations, OPC will consider the circumstances of the employees and options to achieve work outcomes safely.

Ad-hoc arrangements

- (23) Employees may request ad-hoc flexible working arrangements. Ad-hoc arrangements are generally one-off or short term arrangements for circumstances that are not ongoing.
- (24) Employees should, where practicable, make the request in writing and provide as much notice as possible.
- (25) Requests for ad-hoc arrangements are not subject to the request and approval processes, detailed in subclauses (4) to (13).
- (26) OPC should consider ad-hoc requests on a case-by-case basis, with a bias to approving ad-hoc requests, having regard to the employee's circumstances and reasonable business grounds.
- (27) Where a regular pattern of requests for ad-hoc arrangements from an employee emerges, OPC should consider whether it is appropriate to seek to formalise the arrangement with the employee.

Altering span of hours

- (28) An employee may request to work an alternative regular span of hours (bandwidth hours). If approved by FPC, hours worked on this basis will be treated as regular working hours and will not attract overtime payments. OPC will not request or require that any employee alter their regular span of hours (bandwidth hours) under these provisions.

43 Part-time work

- (1) Employees engaged on a full-time basis will not be compelled to convert to part-time employment.
- (2) Employees engaged on a part-time basis will not be compelled to convert to full-time employment.

44 Part-time hours

- (1) An employee is working part-time if their average weekly normal hours are less than 37 hours 30 minutes. These hours are to be worked during the normal bandwidth.
Example: A part-time employee may work a 9 day fortnight.
- (2) The number of hours worked and the work patterns of an employee granted permission to work part-time hours are to be as agreed between the employee and FPC from time to time.

45 Christmas closedown

- (1) OPC will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year's Day.
- (2) Employees will be provided with time off for the working days between Christmas and

New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on half pay).

- (3) There will be no deduction from annual or personal/carer's leave credits for the closedown days.

46 Public holidays

- (1) Employees are entitled to the following holidays each year as observed at their normal work location in accordance with the FW Act:
 - (a) 1 January (New Year's Day);
 - (b) 26 January (Australia Day);
 - (c) Good Friday and the following Monday;
 - (d) 25 April (Anzac Day);
 - (e) the King's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - (f) 25 December (Christmas Day);
 - (g) 26 December (Boxing Day);
 - (h) any other day, or part day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part day, or a kind of day or part day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
- (2) If a public holiday falls on a Saturday or Sunday, and if under a State or Territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.

Substituting days

- (3) FPC and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.
- (4) FPC and an employee may agree to substitute a cultural or religious day of significance to the employee for any day that is a prescribed holiday. If the employee cannot work on the prescribed holiday, the employee will be required to work make-up time at times to be agreed. This substitution does not impact or reduce an employee's entitlement to First Nations ceremonial leave, NAIDOC leave or cultural leave.
- (5) Where an employee substitutes a public holiday for another day, they will not be paid penalty rates for working their normal hours on the public holiday.

Public holidays while on leave

- (6) Where a public holiday falls during a period when an employee is absent on leave (other than annual, paid personal or defence service sick leave) there is no entitlement to receive payment as a public holiday. Payment for that day will be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is at half pay.)

Payment for public holidays in various jurisdictions

- (7) An employee, who is absent on a day or part day that is a public holiday in their normal work location, is entitled to be paid for the part or full day absence as if that day or part

day was not a public holiday, except where that person would not normally have worked on that day.

Payment when every Sunday is a public holiday

- (8) If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate if the employee performs work on that day, and the Sunday would otherwise be a public holiday under any of paragraphs (1)(a) to (h).

Changing regular planned day off so that it does not fall on a public holiday

- (9) Where a full time employee, including but not limited to employees on compressed hours, has a regular planned day off which would fall on a public holiday, FPC may allow the employee to change their planned day off so that it does not fall on a public holiday. If it is not possible to change their planned day off, the employee will be credited an equivalent amount of time to their regular hours for the day in flex credits or EL TOIL in recognition of their planned day off.

Section 6—Leave

Division 1—Annual leave

47 Accrual of annual leave credit

- (1) An employee (other than a casual employee) is entitled to 4 weeks (20 days) paid annual leave per year of service. Annual leave entitlements accrue daily, will be credited fortnightly and are cumulative.
- (2) A part-time employee accrues a pro-rata annual leave credit based on the hours worked.
- (3) An employee who receives compensation under the *Safety, Rehabilitation and Compensation Act 1988* accrues annual leave credit in accordance with subclauses (1) and (2) for the first 45 weeks during which they receive compensation and after the end of the 45 weeks, accrues annual leave credit on a pro-rata basis based on the hours worked while they continues to receive compensation.
- (4) Leave does not accrue during absences on leave without pay not to count as service. However, an employee who takes 30 calendar days or less of such leave during a calendar year will be credited with leave on 31 December for the leave that would have accrued during that leave if it had counted as service.

48 Taking annual leave

- (1) The granting of annual leave is subject to operational requirements, but FPC will not unreasonably:
 - (a) refuse to authorise an employee to take an amount of annual leave that is credited to the employee; or
 - (b) revoke an authorisation enabling an employee to take annual leave during a particular period.
- (2) FPC may grant annual leave to be taken before the necessary annual leave credits accrue.
- (3) Annual leave counts as service for all purposes.
- (4) If a public holiday to be observed by employees falls within a period of annual leave granted to an employee, there will be no deduction from annual leave credit in respect of the employee's absence from duty on that public holiday.

49 Employees may take annual leave at half pay

An employee may nominate in writing that a period of annual leave is to be taken at half pay. Where annual leave is taken at half pay at the request of the employee, the employee's annual leave credit will be debited with half the number of days taken on half pay.

50 Restrictions on taking annual leave at half pay

- (1) An employee may only take whole days of annual leave at half pay.
- (2) An employee may not take annual leave at half pay if, at the end of the period of annual leave, the employee's annual leave credits would total more than the amount that would be the annual leave credits representing 2 years' service.

51 Employee directed to take annual leave

- (1) FPC may direct an employee to take annual leave if, at the time the direction is given, the employee has annual leave credits of more than 10 weeks.
- (2) The maximum amount of annual leave FPC may direct an employee to take under this clause is 1/4 of the amount of credited annual leave of the employee at the time that the direction is given.

52 Expenses—cancellation of leave or recall to duty

- (1) This provision applies if an employee's leave is cancelled without reasonable notice or an employee is recalled to work from leave.
- (2) On request from the employee, they will be reimbursed such travel costs and incidental expenses as FPC thinks reasonable, being costs and expenses incurred in respect of the employee or any family member travelling with or intended to travel with the employee and that are not otherwise recoverable under any insurance or from any other source.

53 Cashing out annual leave

- (1) An employee may, with the approval of FPC, cash out a portion of the employee's annual leave credit.
- (2) A request to cash out annual leave will not be approved if:
 - (a) the cashing out would result in the employee's remaining annual leave credits being less than 4 weeks; or
 - (b) less than 2 weeks annual or long service leave has been taken in the preceding 12 months.
- (3) Each cashing out of a particular amount of annual leave credit must be by a separate agreement in writing between FPC and the employee.
- (4) If an employee cashes out annual leave, the employee will be paid the full amount that would have been paid to the employee had the employee taken the leave at the time the payment is made.

54 Annual leave to be paid out when employment ceases

When employment ceases, the employee is entitled to payment in lieu of annual leave in respect of any outstanding annual leave credits. This payment will be made at the employee's final rate of salary, including any allowances that would have been paid during annual leave.

Division 2—Personal/carer’s leave

Subdivision A—Personal/carer’s leave credits

55 Accrual of personal/carer’s leave credit

Entitlement

- (1) Employees are entitled to 18 days paid personal/carer’s leave per annum (pro-rata for part-time employees).
- (2) Personal/carer’s leave at half pay may be approved by FPC.

Accrual

- (3) For an ongoing employee, 18 days personal/carer’s leave will be credited upon the employee’s commencement with the APS.
- (4) After 12 months, personal/carer’s leave entitlements will accrue daily, will be credited fortnightly and are cumulative.
- (5) A part-time employee accrues a pro-rata personal/carer’s leave credit based on the hours of duty.
- (6) For a non-ongoing employee, the personal/carer’s leave will be credited upon the employee’s commencement with OPC (unless the employee has an existing entitlement to personal/carer’s leave). This will be 18 days leave pro-rated based on the employee’s initial contract period, and is capped at 18 days.
- (7) For a non-ongoing employee with employee an existing entitlement to personal/carer’s leave, or after their initial contract period or 12 months has expired, whichever is shorter, personal/carer’s leave will accrue daily, and will be credited fortnightly.
- (8) A casual employee may be absent without pay when not fit for work due to personal illness or injury. A casual employee may access 2 days unpaid carer’s leave per occasion, consistent with the NES.

Transitional arrangements

- (9) Where an employee has:
 - (a) has, or cares for someone with, a chronic condition or other ongoing illness;
 - (b) is recovering from surgery;
 - (c) is pregnant;
 - (d) is returning from parental leave or has a child commencing day care; andas a result of the transition to daily accrual of personal/carer’s leave, does not have sufficient credit to cover an absence for which they would otherwise be able to take personal/carer’s leave, FPC will advance the employee’s accrual up to the 12 month anniversary when their leave would otherwise be credited.
- (10) An employee who receives compensation under the *Safety, Rehabilitation and Compensation Act 1988* accrues personal/carer’s leave credit for the first 45 weeks during which they receives compensation and after the end of the 45 weeks, accrues personal/carer’s leave credit on a pro-rata basis based on the hours worked while they continues to receive compensation.

- (11) Leave does not accrue during absences on leave without pay not to count as service. However, an employee who takes 30 calendar days or less of such leave during a calendar year will accrue personal/carer's leave as if they did not take any leave without pay not to count as service during the year.

Subdivision B—Use of personal/carer's leave

56 Personal/carer's leave with pay

- (1) FPC may grant personal/carer's leave with pay to an employee in accordance with personal/carer's leave credit available to the employee in the following circumstances or for the following purposes:
- (a) because of personal illness or injury;
 - (b) where the employee attends a medical appointment with a registered health practitioner;
 - (c) to manage a chronic condition;
 - (d) to provide care or support for a family member (including a household member) or a person they have caring responsibilities for, because:
 - (i) of a personal illness or injury affecting the other person; or
 - (ii) of an unexpected emergency affecting the other person;
 - (e) to attend a ceremony of religious or cultural significance which involves a family member;
 - (f) for the provision of emergency interpreting for a family member;
 - (g) to attend the employee's graduation ceremony;
 - (h) to accompany a family member to court where the family member is a party or a witness to proceedings;
 - (i) to enable the employee to participate as an accredited official or competitor in an international sporting event that FPC considers is of major international significance.
- (2) A person that an employee has caring responsibilities for may include a person who needs care because they:
- (a) have a medical condition, including when they are in hospital;
 - (b) have a mental illness;
 - (c) have a disability;
 - (d) are frail or aged; or
 - (e) are a child, not limited to a child of the employee.
- (3) Personal/carer's leave with pay under paragraphs (1)(e) to (i) is only to be granted for occasional, non-enduring situations while longer term arrangements are made (if necessary).
- (4) Personal/carer's leave with pay under paragraphs (1)(b) and (e) to (i) must not be used, and will not be granted, if it would be detrimental to an employee in any respect, when compared to the National Employment Standards under the FW Act.
- (5) Personal/carer's leave with pay cannot be used as a substitute for formal child care arrangements (for example, during school holidays). In addition, personal/carer's leave with pay cannot be granted in the following circumstances:
- (a) attendance at a family member's school or educational facility (whether or not required or encouraged by the school or facility);
 - (b) to care for a family member on a student-free school day.
- This subclause does not apply to unexpected situations arising at short notice.

- (6) Evidence may be requested after:
 - (a) more than 5 consecutive days; and/or
 - (b) more than 8 days without evidence in a calendar year.
- (7) Acceptable evidence includes:
 - (a) a certificate from a registered health practitioner;
 - (b) a statutory declaration; and
 - (c) another form of evidence approved by FPC.
- (8) A certificate from a registered health practitioner may be used as evidence of a chronic condition for up to 12 months for both personal and carer's leave.
- (9) An application for personal/carer's leave with pay must specify the paragraph in subclause (1) under which it is made and be supported by reasons for the application.

57 Personal/carer's leave on half pay

Any part of an employee's personal/carer's leave credit may be taken on half pay at the request of the employee, and the employee's personal/carer's leave credit will be debited with half the number of days taken on half pay.

58 Anticipation of personal/carer's leave credit

If the employee's personal/carer's leave credit is exhausted, FPC may allow the employee to use up to 15 days personal/carer's leave credit in advance of the credit accruing.

59 Personal/carer's leave without pay

- (1) FPC may grant personal/carer's leave without pay to an employee who has no personal/carer's leave credit available.
- (2) If acceptable evidence is required under clause 56 and it is not provided, the personal/carer's leave granted to an employee must be without pay.

60 When does personal/carer's leave count as service?

- (1) A period of personal/carer's leave counts as service for all purposes except in circumstances covered by any of subclauses (2) to (4).
- (2) Personal/carer's leave granted without pay because of subclause 59(2) does not count as service for any purpose.
- (3) If an employee has been granted personal/carer's leave for a continuous period of more than 78 weeks (including at least 52 weeks leave with pay), any of the personal/carer's leave that is without pay after the end of the first 78 weeks does not count as service for any purpose (unless otherwise required by legislation).
- (4) If an employee has been granted personal/carer's leave without pay for a continuous period of more than 26 weeks, any of the personal/carer's leave that is without pay after the end of the first 26 weeks does not count as service for any purpose (unless otherwise required by legislation).

Subdivision C—Provisions applicable only to illness or injury of employee

61 FPC may direct leave of absence

If a medical report obtained for the purpose of determining an employee's fitness for duty states that the employee is unfit for duty, FPC may grant the employee personal/carer's leave in accordance with the report and direct the employee to absent themselves from duty during the period of leave.

62 Personal/carers leave not available while on maternity leave

An employee is not entitled to personal/carer's leave with pay for any period when the employee is entitled to leave with pay under the *Maternity Leave (Commonwealth Employees) Act 1973*.

63 Employee sick on public holiday

If an employee is unfit for duty because of illness or injury on a public holiday, the employee's personal/carer's leave credit is not reduced for that day.

64 Invalidity

- (1) The retirement of an employee on invalidity grounds must not, without the employee's consent, take effect earlier than the day when the employee's credit for personal/carer's leave is exhausted unless the continuous period for which the employee is granted personal/carer's leave with pay (whether full pay or half pay or a combination) immediately before retirement exceeds 52 weeks unless provided by legislation.
- (2) If a person, after retirement on invalidity grounds, is re-engaged because of action taken under section 75 of the *Superannuation Act 1976*, the person must be credited on re-engagement with the personal/carer's leave at their credit immediately before retirement.

Subdivision D—Unpaid carer's leave

65 Unpaid carer's leave to care for family member etc.

An employee is entitled to 2 days of unpaid carer's leave for each occasion when a family member of the employee requires care or support during such a period because of a personal illness or injury of the member or an unexpected emergency affecting the member. This leave does not count as service for any purpose.

Division 3—Portability and re-crediting of leave

66 Portability of leave

Moving from another APS agency

- (1) Where an employee moves into OPC from another APS agency where they were an ongoing employee, the employee's unused accrued annual leave and personal/carer's leave will be transferred, provided there is no break in continuity of service.

Moving from the Parliamentary Service or the ACT Government

- (2) Where an employee is engaged in OPC immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carer's leave will be recognised unless the employee received payment in lieu of those entitlements on cessation of employment.

Leave accrued as non-ongoing employee

- (3) Where an employee is engaged as an ongoing employee in OPC, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in OPC or another agency), at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on separation) and personal/carer's leave will be recognised.
- (4) Where an employee is engaged as a non-ongoing APS employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee (whether in OPC or another agency) at the employee's request, any unused accrued annual leave (excluding accrued leave paid out on termination of employment) and personal/carer's leave will be recognised.

Moving from a Commonwealth Government entity

- (5) Where a person is engaged as an ongoing employee in OPC, and immediately prior to the engagement the person was employed by a Commonwealth employer (other than in the Parliamentary Services which are covered in subclause (2)), FPC will recognise any unused accrued personal/carer's leave at the employee's request. FPC will advise the employee of their ability to make this request.

Moving from State or Territory Government

- (6) Where a person is engaged as an ongoing employee in OPC, and immediately before the engagement the person was employed by a State or Territory Government, FPC may recognise any unused personal/carer's leave, provided that there is not a break in continuity of service.

Meaning of continuity of service

- (7) For the purposes of this clause, an employee with a break in service of less than 2 months is considered to have continuity of service.

Credits expressed in half-pay days

- (8) Any personal/carer's leave credits expressed in half-pay days will be credited at the rate of one day of personal/carer's leave for each 2 days of half-pay leave.

- (9) Any annual leave credits are to be expressed in days (rather than hours) before being credited.

67 Re-crediting of leave

- (1) Where an employee is on:
- (a) annual leave;
 - (b) purchased leave;
 - (c) defence reservist leave;
 - (d) First Nations Ceremonial leave;
 - (e) NAIDOC leave;
 - (f) cultural leave; or
 - (g) long service leave; and
- becomes eligible for, under legislation or this agreement:
- (h) personal/carer's leave;
 - (i) compassionate or bereavement leave;
 - (j) jury duty;
 - (k) emergency services leave;
 - (l) leave to attend to family and domestic violence circumstances; or
 - (m) parental leave, premature birth leave, stillbirth leave or pregnancy loss leave;
- the affected period of leave will be re-credited.
- (2) Where an employee is on personal/carer's leave and becomes eligible for parental leave, premature birth leave, stillbirth leave or pregnancy loss leave, the affected period of leave will be re-credited.
- (3) Re-crediting is subject to appropriate evidence of eligibility for the substituted leave.

Division 4—Other kinds of leave

68 Long service leave

- (1) An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- (2) The minimum period for which long service leave will be granted is 7 calendar days (whether taken at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation or provided for in clause 67 of this agreement.

69 Miscellaneous leave

- (1) Leave with pay (to count as service for all purposes) may be granted, at FPC's discretion, to an employee (including a casual employee to provide paid family and domestic violence leave and otherwise by Government directive) for any purpose for which leave with pay could not otherwise be granted.

Note: See also subclauses 86(4) (family and domestic violence leave) and 90(2) (disaster support).

- (2) Leave without pay (not to count as service for any purpose unless otherwise required by legislation) may be granted, at FPC's discretion, to an employee (including a casual employee) for any purpose for which leave could not otherwise be granted.

70 Ceremonial, cultural and NAIDOC leave

NAIDOC Leave

- (1) First Nations employees may access up to 2 days of paid leave per calendar year to participate in NAIDOC week activities.
- (2) NAIDOC leave can be taken in part days.

First Nations ceremonial leave

- (3) First Nations employees may access up to 6 days of paid leave over 2 calendar years to participate in significant activities associated with their culture or to fulfil ceremonial obligations.
- (4) FPC may approve additional leave for cultural or ceremonial purposes as miscellaneous leave, with or without pay.
- (5) First Nations ceremonial leave can be taken as part days.
- (6) First Nations ceremonial leave is in addition to compassionate and bereavement leave.

Cultural leave

- (7) FPC may grant up to 3 days of paid leave per calendar year for the purpose of attending significant religious or cultural obligations associated with the employees' particular faith or culture.
- (8) FPC may approve additional leave for cultural purposes as miscellaneous leave, with or without pay.
- (9) Cultural leave can be taken as part days.

- (10) For the avoidance of doubt, this leave does not cover cultural purposes or obligations which are eligible for paid leave under subclause (3).

71 Parental leave

- (1) A primary caregiver, secondary caregiver and ML Act is defined in the definitions section.
- (2) An employee who is a primary caregiver or secondary caregiver is entitled to parental leave up until 24 months from the date of the child’s birth or placement (*parental leave period*). For the avoidance of doubt, this is inclusive of all legislated leave entitlements. The parental leave period does not extend non-ongoing employment where the employment period remaining is less than 24 months. An employee is only eligible for parental leave with pay as either a primary caregiver or a secondary caregiver for the particular parental leave period, and cannot switch roles for the purpose of accessing additional paid leave.
- (3) For the pregnant employee, the parental leave period starts on commencement of maternity leave as per ML Act requirements, and ceases 24 months from the date of birth. Medical certification requirements for the pregnant employee will be as required by the ML Act.
- (4) Conditions in this agreement will continue to apply in circumstances where successor legislation to the ML Act does not provide parental leave conditions included in this agreement.

Payment during parental leave

- (5) An employee is entitled to parental leave with pay as per subclauses (7) and (8) below within the parental leave period. Any further parental leave during the parental leave period is without pay. Unused paid parental leave remaining at the end of the employee’s parental leave period will lapse. An employee may choose to use their accrued paid leave entitlements in accordance with usage and eligibility requirements in this agreement during the parental leave period that would otherwise be without pay.
- (6) Employees newly engaged in OPC or who have moved to OPC from another APS agency are eligible for the paid parental leave in subclauses (7) and (8) where such paid leave had not already been provided by another APS agency or Commonwealth employer in the 24 months since the child’s date of birth or placement. If the paid leave used by the employee with the previous Commonwealth employer or APS agency is less than the limits specified in subclauses (7) and (8), the balance is available to the employee.
- (7) An employee who is a primary caregiver is entitled to parental leave with pay during the parental leave period to a maximum of 18 weeks as provided in Table 1 below.

Table 1: Primary caregivers – circumstances for paid parental leave

Paid leave entitlement under the ML Act	Additional parental leave with pay under this agreement for the primary caregiver
12 weeks’ paid maternity leave, including any reduced paid maternity leave period due to ML Act qualifying period rules	Paid leave to bring the total period of paid parental leave to 18 weeks
No ML Act eligibility or coverage	18 weeks

- (8) An employee who is a secondary caregiver is entitled to parental leave with pay during the parental leave period as provided in Table 2 below.

Table 2: Secondary caregivers – circumstances for paid parental leave

Period which coincides with the parental leave period for the secondary caregiver	Parental Leave with pay under this agreement
Date of commencement of this agreement to 28 February 2025	8 weeks, or top up to 8 weeks where a lesser period of parental leave has already been provided
1 March 2025 to 28 February 2026	11 weeks, or top up to 11 weeks where a lesser period of parental leave has already been provided
1 March 2026 to 27 February 2027	14 weeks, or top up to 14 weeks where a lesser period of parental leave has already been provided
On and from 28 February 2027	18 weeks, or top up to 18 weeks where a lesser period of parental leave has already been provided

Flexibility

- (9) Parental Leave with pay, whether provided as maternity leave under the ML Act or under this agreement, can be accessed flexibly during the parental leave period and does not have to be taken in a single block. For the avoidance of doubt, parental leave can be used to replicate a part-time work arrangement, and can be taken concurrently with another parent in relation to the same child.
- (10) Rate of payment during paid parental leave is the same as for an absence on personal/carer's leave and based on the employee's weekly hours at the time of the absence.

Half pay option

- (11) The payment of any paid parental leave may be spread over a maximum period of 36 weeks at the rate of, no less than, half the normal rate of salary. All paid parental leave counts as service for all purposes, where permitted by legislation.

Adoption and long-term foster care

- (12) An employee who is a primary caregiver or secondary caregiver is entitled to parental leave in accordance with this agreement for adoption or long-term foster care, provided that the child:
- (a) is under 16 as at the day (or expected day) of placement;
 - (b) has not lived continuously with the employee for a period of six months or more as at the day (or expected day) of placement; and
 - (c) is not (otherwise than because of the adoption) a child of the employee or the employee's partner.
- (13) Documentary evidence of approval for adoption or enduring parental responsibilities under formal fostering arrangements must be submitted when applying for parental leave for adoption or long-term foster carer purposes.

Stillbirth

- (14) Parents of a stillborn child remain eligible for parental leave, except for paid leave for the secondary caregiver which is two weeks.
- (15) A stillborn child is a child:
- (a) who weighs at least 400 grams at delivery or whose period of gestation was 20 weeks or more;
 - (b) who has not breathed since delivery; and
 - (c) whose heart has not beaten since delivery.

Pregnancy loss leave

- (16) A pregnant employee who experiences, or an employee whose partner experiences, pregnancy loss is entitled to one weeks' paid leave. Pregnancy loss is a miscarriage or other loss of pregnancy that occurs between 12 and 20 weeks' gestation that is not a stillbirth.
- (17) Pregnancy loss leave is in addition to entitlements to compassionate leave for miscarriage provided under the FW Act and this agreement.

Premature birth leave

- (18) In circumstances of a live birth before 37 weeks' gestation a pregnant employee, or an employee whose partner has given birth prematurely, is entitled to paid premature birth leave from the date of the child's birth up to just before 37 weeks' gestation. Parental leave with pay is then available from what would have been 37 weeks' gestation in accordance with parental leave in this agreement, noting the parental leave period commences on the child's date of birth.

Transitional provisions

- (19) Employees eligible for paid leave under the ML Act are required under legislation to use their paid maternity leave first. In this circumstance, the employee may postpone their paid premature birth leave otherwise payable under subclause (18) until after the legislated paid maternity leave is used.

72 Compassionate leave

- (1) Employees will be eligible for 3 days paid compassionate leave on each occasion when:
 - (a) a member of their family (including a member of their household) or someone they have a close personal relationship with contracts, develops or sustains a life-threatening illness or injury; or
 - (b) the employee or their partner has a miscarriage.
- (2) An employee may be asked to provide evidence to support their absences on compassionate leave.
- (3) Compassionate leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- (4) For casual employees, compassionate leave is unpaid.

73 Bereavement leave

- (1) Employees will be eligible for 3 days paid bereavement leave on each occasion when:
 - (a) a member of their family (including a member of their household) or someone they had a close personal relationship with dies; or
 - (b) a child is stillborn, where the child was a member of their family (including a member of their household).
- (2) An employee may be asked to provide evidence to support their absences on bereavement leave.
- (3) Bereavement leave for an occasion may be taken as 3 consecutive days or in separate periods totalling 3 days. This can include part days.
- (4) For casual employees, bereavement leave is unpaid.

- (5) In addition:
 - (a) a maximum of 5 days for each bereavement will be granted to attend to responsibilities such as funeral arrangements, executor duties, administrative estate duties or duties to assist police or legal authorities with enquiries where a family member of an employee has died; and
 - (b) a maximum of 4 hours will be granted to attend a funeral in the Canberra region of a close friend. A maximum of 1 day will be granted if the funeral is elsewhere.

74 Emergency response leave

- (1) In line with section 108 of the FW Act, an employee who engages in an eligible community service activity is entitled to emergency response leave to volunteer for emergency management duties for:
 - (a) the time engaged in the activity;
 - (b) reasonable travelling time; and
 - (c) reasonable recovery time.
- (2) Full-time and part-time employees will be able to access 20 working days of paid emergency response leave at full pay per year if required. FPC may provide additional emergency response leave with pay.
- (3) Paid leave may be refused where the employee's role is essential to OPC's response to the emergency.
- (4) An employee must provide evidence that the organisation requests their services. Employees can provide evidence before or as soon as practical after their emergency service activity.
- (5) FPC may approve reasonable paid or unpaid leave for ceremonial duties and training.
- (6) Emergency response leave, with or without pay, will count as service.

75 Jury duty

- (1) Employees who are required by a court to attend either for jury selection, or to act as a juror, will be released from duty for the required period, without the need to apply for leave.
- (2) Full and part-time employees will be released from duty on full pay. Payment for casuals will be as per the relevant state legislation.
- (3) For the purposes of this clause, full rate of pay is to be as if the employee was at work.
- (4) The employee is required to inform their manager before they are released from duty and provide evidence of the need to attend.
- (5) If the employee receives a payment from the court for attendance (which are not expense related such as allowances and reimbursements), they must repay that amount to OPC for the period of absence. This will be administered in accordance with clause 18 (overpayments).

76 Defence reservist leave

- (1) FPC will give an employee leave with or without pay to undertake:
 - (a) Australian Defence Force (*ADF*) Reserve and continuous full-time service (*CFTS*); and

- (b) Australian Defence Force Cadet obligations.
- (2) An employee who is a Defence Reservist can take leave with pay for:
 - (a) up to 4 weeks (20 days) in each financial year (pro-rata for part-time employees); and
 - (b) an extra 2 weeks (10 days) in the first year of ADF Reserve service (pro-rata for part-time employees).
- (3) Leave can be built up and taken over 2 consecutive years. This includes the extra 2 weeks in the first year of service.
- (4) An employee who is an Australian Defence Force Cadet Officer or instructor can get paid leave up to 3 weeks in each financial year to perform their duties. Australian Defence Force Cadet means:
 - (a) Australian Navy Cadets;
 - (b) Australian Army Cadets; and
 - (c) Australian Air Force Cadets.
- (5) In addition to the entitlement at subclause (2), paid leave may be granted to an employee to attend an interview or medical examination in connection with the enlistment of the employee in a Reserve Force of the Defence Force.
- (6) Paid defence reservist leave counts for service.
- (7) Unpaid Defence Reservist leave for 6 months or less counts as service for all purposes. This includes periods of CFTS.
- (8) Unpaid leave taken over 6 months counts as service, except for annual leave.
- (9) An employee will not need to pay their tax free ADF Reserve salary to OPC for any reason.

77 Defence service sick leave and other defence-related leave

- (1) An employee is eligible for defence service sick leave credits when the Department of Veterans Affairs (*DVA*) has certified that an employee's medical condition is as a result of either:
 - (a) war-like service; or
 - (b) non-war like service.
- (2) An eligible employee can get 2 credits:
 - (a) an initial credit of 9 weeks (45 days) defence service sick leave will apply as of the later below option:
 - (i) they start employment with the APS; or
 - (ii) DVA certifies the condition;
 - (b) an annual credit of 3 weeks (15 days) defence service sick leave.
- (3) An employee can use their defence service sick leave when a recognised medical practitioner provides a certificate that says they were away due to their DVA certified medical condition.
- (4) Unused annual credits can be built up to 9 weeks.
- (5) An employee cannot use annual credits until the initial credit is exhausted.
- (6) Defence service sick leave is paid and counts as service for all purposes.

Returned soldiers pension review

- (7) A maximum of 10 days, or any longer period determined by FPC, will be granted to enable an employee who is a returned soldier to receive medical attention or undergo a pension review. This leave counts for service.

78 Leave to attend proceedings

- (1) An employee giving evidence before a Court, Tribunal or Royal Commission on behalf of the Commonwealth or a Commonwealth party in the course of their duties, will be considered on duty.
- (2) An employee who is not covered under subclause (1), and is required to give evidence to, appear before or attend to instruct a representative at a Court, Tribunal or Royal Commission in relation to their duties will be released from duty without loss of pay. This includes in proceedings relating to a dispute between the employee and OPC.
- (3) An employee may otherwise be granted paid or unpaid miscellaneous leave by FPC if required to give evidence to a Court, Tribunal or Royal Commission for any other reason. Where approval for unpaid leave is given, the employee may elect to use accrued annual leave, flex leave or time off in lieu.
- (4) FPC may refuse to release an employee from duty having regard to business requirements and whether the employee's attendance is necessary for the Court, Tribunal or Royal Commission hearing.

79 Moving house leave

- (1) One day, or any longer period determined by FPC, will be granted in any period of 12 months to move house.
- (2) The leave counts as service for all purposes.

Division 5—Other provisions relating to leave

80 Leave without pay

- (1) Leave without pay (not to count as service for any purpose) will be granted to an employee to enable the employee to accompany a partner on a posting away from the ACT.
- (2) Leave without pay (to count as service for all purposes except the accrual of annual leave credits) will be granted to an employee to engage in employment outside the APS, if FPC is satisfied that the proposed employment would be in the interests of the APS.
- (3) Leave without pay (to count as service for all purposes) will be granted to an employee to take up employment in accordance with section 67 of the *Australian Public Service Commissioner's Directions 2022*.
- (4) Leave without pay will be granted to an employee to engage in employment outside the APS for purposes associated with compensation leave. This leave will count as service for all purposes, except that, in determining the accrual of annual and personal/carer's leave credits (see clauses 47 and 55), it will be treated as a period during which the employee is receiving compensation.

81 Unauthorised absences

- (1) If an employee is absent from duty without approval, all pay and other benefits provided under this agreement may, at FPC's discretion, cease to be available until the employee resumes duty or is granted leave. Until then, standard hours of work as defined in clause 38 will apply in the case of a full-time employee and the part-time hours of work agreed with FPC will apply in the case of a part-time employee.
- (2) Unauthorised absences may constitute non-performance of duties and result in termination of employment. The procedures for dealing with non-performance of duties are set out in policy.

Section 7—Employee support and workplace culture

82 Blood donation

- (1) An employee can take reasonable time away from duty during their ordinary work hours to donate blood, plasma or platelets. It includes reasonable travel time and employers will consider employees on duty.
- (2) The employee must inform their manager in advance of when they will be away from work before donating blood, plasma or platelets.

83 Vaccinations

- (1) OPC will offer annual influenza vaccinations to all employees at no cost.
- (2) Where OPC requires an employee performing a role to be vaccinated for a particular condition, this vaccination will be offered at no expense to the employee.

84 Employee assistance program

Employees, their partners, and their dependants/children will have access to a confidential, professional counselling service to assist employees to manage personal and work issues. This service will be provided at no cost to employees by OPC and will be accessible on paid time.

85 Respect at work

Principles

- (1) OPC values a safe, respectful and inclusive workplace free from physical and psychological harm, harassment, discrimination and bullying. OPC recognises that preventing sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace is a priority.
- (2) OPC recognises that approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace should be holistic and consistent with the Australian Human Rights Commission's guidance, including the *Good Practice Indicators Framework for Preventing and Responding to Workplace Sexual Harassment*.

Consultation

- (3) OPC will consult with employees and their unions in developing, reviewing and evaluating approaches to prevent sexual harassment, sex discrimination, sex-based harassment and victimisation in the workplace.

86 Family and domestic violence support

- (1) OPC will provide support for employees affected by family and domestic violence, depending on the employee's circumstances.
- (2) OPC recognises that a holistic approach should be taken to support the employee, appropriate for the employee's individual circumstances.
- (3) Family and domestic violence support provisions, including paid leave, are available to all employees covered by this agreement.

- (4) An employee experiencing family and domestic violence is able to access paid miscellaneous leave. Reasons an employee experiencing family and domestic violence may access this leave include, but are not limited to:
 - (a) illness or injury affecting the employee resulting from family and domestic violence;
 - (b) providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is ill or injured as a result of family and domestic violence;
 - (c) providing care or support to a family member (including a household member) who is also experiencing family and domestic violence, and is affected by an unexpected emergency as a result of family and domestic violence;
 - (d) making arrangements for the employee's safety, or the safety of a close relative;
 - (e) accessing alternative accommodation;
 - (f) accessing police services;
 - (g) attending court hearings;
 - (h) attending counselling; and
 - (i) attending appointments with medical, financial or legal professionals.
- (5) This entitlement exists in addition to an employee's existing leave entitlements and may be taken as consecutive days, single days or part days and will count for service for all purposes.
- (6) Given the emergency context in which leave may need to be accessed, employees can proceed to take the leave and seek approval at a later date, as soon as practicable.
- (7) These provisions do not reduce an employee's entitlement to family and domestic violence leave under the NES.
- (8) Paid miscellaneous leave available under this clause is paid for ongoing and non-ongoing employees at their full rate as if they were at work.
- (9) Paid leave for casual employees under this clause is paid at their full pay rate for the hours they were rostered to work in the period they took leave.
- (10) Evidence may be requested to support OPC in approving leave. In most cases, this will not be required. Where it is required, this will be discussed with the employee and a statutory declaration is the only form of evidence OPC will require, unless the employee chooses to provide another form of evidence.
- (11) An employee may also choose to provide other forms of evidence, including a medical certificate, or document issued by the Police Service, a Court, a Doctor, district Nurse, a Family Violence Support Service or Lawyer.
- (12) OPC will take all reasonable measures to treat information relating to family and domestic violence confidentially. OPC will adopt a 'needs to know' approach regarding communication of an employee's experience of family and domestic violence, subject to steps OPC may need to take to ensure the safety of the employee, other employees or persons, or mandatory reporting requirements.
- (13) Where OPC needs to disclose confidential information for purposes identified in subclause (12), where it is possible OPC will seek the employee's consent and take practical steps to minimize any associated safety risks for the employee and/or privacy breaches.
- (14) OPC will not store or include information on the employee's payslip in relation to:
 - (a) the employee's experience of family and domestic violence;

- (b) any leave accessed for the purposes of family and domestic violence; or
 - (c) any support(s) provided by the employer;
- unless otherwise required by legislation.
- (15) Other available support may include, but is not limited to, flexible working arrangements, additional access to EAP, changes to their span of hours or pattern of hours and/or shift patterns and/or location of work where reasonably practicable.
 - (16) OPC will acknowledge and take into account an employee's experience of family and domestic violence if an employee's attendance or performance at work is affected.
 - (17) Further information about leave and other support available to employees affected by family and domestic violence may be found in policy.

87 Integrity in the APS

- (1) OPC understands that procedural fairness is essential in building and maintaining trust with APS employees, and that it requires fair and impartial processes for employees affected by APS-wide or OPC decisions.
- (2) Employees are to give advice that is frank, honest, timely and based on the best available evidence. This includes scientific and engineering advice based on evidence-based facts guided by the best available science and data. Employees will not be disadvantaged or discriminated against because they have given advice in accordance with their expertise or professional qualifications and in accordance with the APS Code of Conduct in the PS Act.
- (3) Employees can, during their ordinary work hours, take time to:
 - (a) access an APS-wide ethics advisory service or another similar service provided by a professional association such as a law society or in OPC; or
 - (b) attend OPC mandated training about integrity.

88 First Nations employment cultural competency training

- (1) FPC will take reasonable steps to ensure all substantive, ongoing EL2 employees employed at the commencement of this agreement or any new substantive, ongoing EL2 employees who commence within the first 6 months of this agreement will complete relevant First Nations cultural competency training within 12 months of the commencement of the agreement.
- (2) Any new substantive, ongoing EL2 employee who commences after 6 months of the commencement of this agreement will be required to complete a relevant First Nations cultural competency training course within 6 months of their appointment or promotion.

89 Lactation and breastfeeding support

- (1) Reasonable paid time during work hours will be provided for lactation breaks for breastfeeding, expressing milk and other associated activities.
- (2) OPC will provide access to appropriate facilities for the purpose of breastfeeding or expressing milk, subject to subclause (3). In considering whether a space is appropriate, an agency should consider whether:
 - (a) there is access to refrigeration;
 - (b) the space is lockable; and
 - (c) there are facilities needed for expressing such as appropriate seating.

- (3) Where it is not practicable for OPC to have a designated space, a flexible approach will be taken so that the employee can access the support required.
- (4) OPC will facilitate discussion between individual employees and their managers about accommodating the employee's lactation needs and practical arrangements to meet these needs.
- (5) The manager and employee shall discuss any flexible working arrangements that may be needed to support lactation. This may include consideration of arrangements such as working from home or varying work hours on an ad-hoc or regular basis. Wherever possible, requests by an employee will be accommodated, noting these needs may be changed over time.
- (6) Further information is available in policy.

90 Disaster support

- (1) Where an official disaster or emergency is declared and this prevents an employee from reasonably attending work, or where it impacts their household or home, FPC will consider flexible working arrangements to assist the employee to perform their work.
- (2) Where flexible working arrangements are not appropriate, FPC may grant paid miscellaneous leave to an employee with regard to the scale and nature of the emergency. This leave counts as service and may be approved retrospectively.
- (3) In considering what period of leave is appropriate, FPC will take into account the safety of the employee, their family (including their household) and advice from local, State and Commonwealth authorities.

Section 8—Performance and development

91 Performance

- (1) To achieve our mission, OPC will maintain a strong performance feedback culture. Sharing performance feedback in an environment that promotes professional growth, collaboration and achievement is the key to successful individual performance, which forms the basis for attaining team and organisational objectives.
- (2) The purpose of our performance program is to empower OPC's people to develop their skills to do their best work. Further detail is contained in policy.

92 Workloads

- (1) OPC recognises the importance of employees balancing their work and personal life. While it is acknowledged that at times it may be necessary for some extra hours being worked by some employees, this should be regarded as the exception rather than the rule.
- (2) When determining workloads for an employee or group of employees, OPC will consider the need for employees to strike a balance between their work and personal life.
- (3) Where an employee or group of employees raise that they have experienced significant workload pressures over a prolonged period of time, OPC and employee/s together must review the employee's workloads and priorities, and determine appropriate strategies to manage the impact on the employee or group of employees.

93 Learning and development

Development opportunities, including the payment of financial assistance to approved students where appropriate, will be made available to employees. Details of OPC's staff development program are set out in policy.

94 Managing unsatisfactory performance

- (1) Supervisors will address performance issues appropriately, promptly, sensitively and actively in a manner consistent with policy and procedure, with the aim of restoring performance.
- (2) Where a formal underperformance process is required, the employee will be afforded procedural fairness. This includes the right to be represented by the employee's chosen representative in discussions with their supervisor about the application of the procedures. The formal assessment of the employee's performance will extend over a period of at least 4 weeks and not more than 13 weeks.

Section 9—Travel and location-based conditions

95 Travel expenses

- (1) An employee who travels on official business and is required to be away from home overnight is entitled to have reasonable accommodation, meal and incidental expenses met by OPC.
- (2) An employee who travels on official business, and is required to be away for a period of not less than 10 hours but not overnight, is entitled to have reasonable meal and incidental expenses met by OPC.
- (3) If an employee is required for work purposes to take up temporary residence away from their usual place of residence:
 - (a) in Australia—for 21 days or more; or
 - (b) overseas—for 3 months or more;the employee is entitled to a partial reimbursement to compensate for the additional expenses incurred by the employee.

96 Usual location of work

- (1) An employee's usual location of work will be the designated office location identified in the employee's letter of offer or other engagement documentation. If no designated office location was specified on engagement, FPC may specify a designated office location by advising the employee in writing.
- (2) FPC and employee may agree to vary the employee's designated office location on a temporary or permanent basis.

97 Relocation assistance

- (1) Where an existing employee is required to relocate at the request of the OPC (such as a promotion), the employee will be provided with financial relocation assistance. Employees who relocate on a temporary basis to take up higher duties are entitled to removal expenses if they relocate for a period of 13 weeks or more.
- (2) Where an employee is required to relocate on engagement with OPC, the employee will be provided with financial relocation assistance.
- (3) Reasonable expenses associated with the relocation include:
 - (a) the cost of transport of the employee and their dependants by the most economical means;
 - (b) removal expenses, namely the reimbursement of reasonable incurred costs of the removal of furniture and household effects of the employee, dependants and partner;
 - (c) the reimbursement of the cost of the insurance premium based on a reasonable replacement value; and
 - (d) the reasonably incurred expenses in kennelling and transport of pets, up to the amount specified in the APS Award.
- (4) Additional relocation assistance may be considered at FPC's discretion.

98 Office accommodation

OPC recognises that the work of drafting roles, and some roles in the Publications and Corporate Services work groups, is most effectively done in an individual office. Taking into account reasonable business grounds and the work environment for all employees, OPC will endeavour to provide an individual office to employees in those roles. Details in regards to work-point allocation will be set out in policy.

Section 10—Consultation, representation and dispute resolution

99 Consultation

Principles

- (1) Genuine and effective consultation with employees and the relevant union(s), taking into account the diverse needs of employees, fosters a positive and inclusive workplace, enabling the views of employees to be considered.
- (2) OPC recognises:
 - (a) the importance of inclusive and respectful consultative arrangements;
 - (b) employees and the relevant union(s) should have a genuine opportunity to influence decisions;
 - (c) the nature and extent of consultation will vary depending on the proposed change and the likely impact on employees (for example, consultation on agency policies may occur over at least 2 weeks, whereas a major change is likely to require a more extensive consultation process);
 - (d) consultation with employees and relevant union(s) on workplace matters that significantly affect or materially impact them is sound management practice; and
 - (e) the benefits of employee and union involvement and the right of employees to be represented by their union.
- (3) Genuine and effective consultation involves:
 - (a) providing employees and the relevant union(s) with a genuine opportunity to influence the decision prior to a decision being made;
 - (b) providing all relevant information to employees and the relevant union(s) in a timely manner to support consideration of the issues;
 - (c) considering feedback from employees and the relevant union(s) in the decision-making process; and
 - (d) advising employees and the relevant union(s) of the outcome of the process, including how their feedback was considered in the decision-making process.

When consultation is required

- (4) Consultation is required in relation to:
 - (a) changes to work practices which materially alter how an employee carries out their work;
 - (b) changes to or the introduction of policies or guidelines relevant to workplace matters (unless the changes are minor or procedural);
 - (c) major change that is likely to have a significant effect on employees;
 - (d) implementation of decisions that significantly affect employees;
 - (e) changes to employees' regular roster or ordinary hours of work (subject to any other relevant provisions in this agreement); and
 - (f) other workplace matters that are likely to significantly or materially impact employees.
- (5) OPC, employees and the relevant union(s) recognise that consultation prior to a decision may not be practicable where a decision is made by Government or is required due to matters beyond the reasonable control of the agency. In these circumstances, consultation regarding the implementation of the decision will occur as early as is reasonably practicable.

Provisions for consultation on major change and introduction of a change to regular roster or ordinary hours of work of employees

- (6) Subclauses (7) to (22) apply if OPC:
- (a) proposes to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Representation

- (7) Employees may appoint a representative for the purposes of the procedures in this clause. A representative for the purpose of this clause may be a union representative.
- (8) OPC must recognise the representative if:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative.

Major change

- (9) In this clause, a major change is ***likely to have a significant effect on employees*** if it results in, for example:
- (a) the termination of the employment of employees;
 - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees;
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - (d) the alteration of hours of work;
 - (e) the need to retrain employees;
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.
- (10) The following additional consultation requirements in subclauses (11) to (17) apply to a proposal to introduce a major change referred to in paragraph (4)(c).
- (11) Consultation with employees and the relevant union(s) and/or recognised representatives will occur prior to a decision being made, subject to subclause (5).
- (12) Where practicable, an OPC change manager or a primary point of contact will be appointed and their details provided to employees and the relevant union(s) and/or their recognised representatives.
- (13) OPC must notify employees and relevant union(s) and/or recognised representatives of the proposal to introduce the major change as soon as practicable.
- (14) As soon as practicable after proposing the change, or notifying of the change in circumstances described at subclause (5), OPC must:
- (a) discuss with affected employees and relevant union(s) and/or other recognised representatives:
 - (i) the proposed change;
 - (ii) the effect the proposed change is likely to have on the employees; and

- (iii) proposed measures to avert or mitigate the adverse effect of the proposed change on the employees; and
- (b) for the purposes of the discussion—provide, in writing, to employees and the relevant union(s) and/or other recognised representatives:
 - (i) all relevant information about the proposed change, including the nature of the change proposed;
 - (ii) information about the expected effects of the proposed change on the employees; and
 - (iii) any other matters likely to affect the employees.
- (15) OPC must give prompt and genuine consideration to matters raised about the major change by employees and the relevant union(s) and/or other recognised representatives.
- (16) However, OPC is not required to disclose confidential or commercially sensitive information to employees and the relevant union(s) and/or other recognised representatives.
- (17) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of OPC, the requirements set out in subclauses (11) to (15) are taken not to apply.

Change to regular roster or ordinary hours of work

- (18) The following additional consultation requirements in subclauses (19) to (24) apply to a proposal to introduce a change referred to in paragraph (4)(e).
- (19) OPC must notify affected employees and the relevant union(s) and/or other recognised representatives of the proposed change.
- (20) As soon as practicable after proposing to introduce the change, OPC must:
 - (a) discuss with employees and the relevant union(s) and/or other recognised representatives the proposed introduction of the change;
 - (b) for the purposes of the discussion—provide to the employees and relevant union(s) and/or other recognised representatives:
 - (i) all relevant information about the proposed change, including the nature of the proposed change;
 - (ii) information about what the employer reasonably believes will be the effects of the proposed change on the employees; and
 - (iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and
 - (c) invite employees and the relevant union(s) and/or other recognised representatives to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- (21) However, OPC is not required to disclose confidential or commercially sensitive information to the relevant employees and the relevant union(s) and/or other recognised representatives.
- (22) OPC must give prompt and genuine consideration to matters raised about the proposed change by the employees and the relevant union(s) and/or other recognised representatives.

Interaction with emergency management activities

- (24) Nothing in this term restricts or limits the ability of a designated emergency management body to undertake activities provided at subsection 195A(1) of the FW Act.

100 Agency consultative committee

- (1) FPC may establish an agency consultative committee to discuss relevant workplace matters.
- (2) OPC consultative committees will operate subject to an agreed terms of reference and structure for the term of the agreement. Representation on the committee will be in accordance with the terms of reference.

101 APS consultative committee

FPC will support the operation of the APS Consultative Committee to the extent possible. This includes providing information requested by the Australian Public Service Commission to support the operation of the APS Consultative Committee, subject to legislative requirements.

102 Dispute resolution

- (1) If a dispute relates to:
 - (a) a matter arising under the agreement; or
 - (b) the National Employment Standards;this term sets out procedures to settle the dispute.
 - (2) An employee or union who is covered by this agreement may initiate and/or be a party to a dispute under this term.
 - (3) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term. Representatives will be recognised and dealt with in good faith.
 - (4) Parties to the dispute must attempt to resolve the dispute at the workplace level, by discussion between the employee or employees and relevant managers. Parties to the dispute will notify higher level managers to assist in the resolution of the dispute. Parties will give genuine consideration to proposals to resolve the dispute.
 - (5) If a dispute about a matter arising under this agreement is unable to be resolved at the workplace level, and all appropriate steps under subclause (4) have been taken, a party to the dispute may refer the dispute to the Fair Work Commission.
 - (6) The Fair Work Commission may deal with the dispute in 2 stages:
 - (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - (i) arbitrate the dispute; and
 - (ii) make a determination that is binding on the parties.
- Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the FW Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5-1 of the FW Act. Therefore, an appeal may be made against the decision.
- (7) While the parties are attempting to resolve the dispute using the procedures in this term:
 - (a) an employee must continue to perform their work as they would normally in accordance with established custom and practice at OPC that existed immediately

prior to the dispute arising, unless they have a reasonable concern about an imminent risk to their health or safety; and

- (b) subject to paragraph (a), an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - (i) the work is not safe;
 - (ii) applicable work health and safety legislation would not permit the work to be performed;
 - (iii) the work is not appropriate for the employee to perform; or
 - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.
- (8) The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.
- (9) Any disputes arising under the *OPC Enterprise Agreement 2016-2019* as maintained by the *Public Service (Subsection 24(1)—OPC Non-SES Employees) Determination 2021*, or the NES, that were formally notified under clause 12 of that agreement before the commencement of this agreement, that remain unresolved at the date of commencement of this agreement, will be progressed under the dispute resolution procedures in this agreement.

Leave of absence to attend proceedings

- (10) Where the provisions of subclauses (1) to (6) have been complied with, and to assist in the resolution of the matter, the employee, and/or the union delegate or other employee representative referred to in subclause (3), or employee required to provide evidence, will be granted paid time to attend dispute resolution processes and proceedings in the Fair Work Commission arising from referral of the matter in subclause (5).

103 Delegates' rights

- (1) Union delegates play an important and legitimate role in the workplace. This includes representing their members and supporting employee access to union officials, and providing employee views to the agency.
- (2) The role of union delegates is to be respected and supported.
- (3) OPC and union delegates will work together respectfully and collaboratively.

Supporting the role of union delegates

- (4) OPC respects the role of union delegates to:
 - (a) provide information, consult with and seek feedback from employees in the workplace on workplace matters;
 - (b) consult with other delegates and union officials, and get advice and assistance from union officials;
 - (c) represent the interests of members to the employer and industrial tribunals; and
 - (d) represent members at relevant union forums, consultative committees or bargaining.
- (5) OPC and union delegates recognise that undertaking the role of a union delegate is not the primary purpose of an employee's engagement, and must work with and not unreasonably impact their regular duties. Honorary officials may request additional time and facilities from time to time.

- (6) Union delegates will be provided with reasonable paid time during their normal working hours to perform their union delegate role. The paid time provided should not result in disruption to critical services or operational requirements.
- (7) To support the role of union delegates, OPC will, subject to legislative and operational requirements, including privacy and security requirements:
 - (a) provide union delegates with reasonable access to agency facilities and resources, including for paid or unpaid meetings between employees and their unions and to communicate with union officials;
 - (b) advise union delegates and other union officials of the agency facilities and resources available for their use, which may include telephone, photocopying, internet, and email;
 - (c) allow reasonable official union communication appropriate to the agency from union delegates with employees, including through email, intranet pages and notice boards. This may include providing a link to a union website for employees to access union information. Any assistance in facilitating email communications does not include an agency vetoing reasonable communications;
 - (d) provide access to new employees as part of induction; and
 - (e) provide reasonable access to union delegates to attend appropriate paid time training in workplace relations matters, during normal working hours.
- (8) Where APS employees are elected as officials of a trade union or professional association, they are not required to seek permission from the workplace or OPC before speaking publicly in that capacity, subject to the APS Code of Conduct and legislative requirements.

Section 11—Separation and retention

Division 1—Resignation or retirement

104 Resignation

- (1) An employee may resign from their employment by giving FPC at least 14 calendar days' notice.
- (2) At the instigation of FPC, the resignation may take effect at an earlier date within the notice period. In such cases, the employee will receive paid compensation in lieu of the notice period which is not worked.
- (3) FPC has the discretion to agree to a shorter period of notice or waive the requirement to give notice.

105 Payment on death of an employee

When an employee dies, or FPC has directed that an employee is presumed to have died on a particular date, subject to any legal requirement, FPC must authorise payments to the partner, dependants or legal representative of the former employee, the amount to which the former employee would have been entitled had they ceased employment through resignation or retirement, or where legislation provides specifically for amounts calculated based on the death of the employee, those amounts. If payment has not been made within a year of the former employee's death, it should be made to their legal representative.

Division 2—Redundancy

106 Application

This Division only applies to employees:

- (a) who are, or are likely to become, excess employees;
- (b) who are not serving a probationary period; and
- (c) who are ongoing APS employees with more than one year's service.

107 Excess employees

An employee is an excess employee if the employee is excess to the requirements of OPC because:

- (a) the employee is included in a class of employees employed in OPC, and the class comprises a greater number of employees than is necessary for the efficient and economical working of OPC; or
- (b) the services of the employee cannot be effectively used because of technological or other changes in the work methods of OPC or changes in the nature, extent or organisation of the function of OPC.

108 FPC's obligations

Throughout the application of this Division, FPC will take all reasonable steps, consistent with the efficient management of OPC, to move an excess employee to a suitable vacancy at an equal classification level within OPC or in another APS agency.

109 Consultation process

- (1) When FPC is aware that an employee is, or employees are, likely to become excess, FPC will, at the earliest practicable time, advise the employee(s) of the situation.
- (2) Discussions with the potentially excess employee(s) or, if an employee requests, with the employee's representative, will be held to consider:
 - (a) measures which might be taken to reduce the likelihood of an employee or employees becoming excess;
 - (b) immediate referral to a provider of redeployment services;
 - (c) redeployment opportunities for the employee(s) concerned, including identifying whether the employee(s) seeks redeployment; and
 - (d) whether voluntary redundancy might be appropriate and whether the employee(s) wants to be offered voluntary redundancy.
- (3) FPC may, before the conclusion of these discussions, invite employees who are not potentially excess to express interest in voluntary redundancy, if those terminations would permit the redeployment of employees who are potentially excess. FPC will not advise an employee that they is excess until the discussions referred to in subclause (2) have occurred. The period of these discussions will be one month (or such other period as is agreed between FPC and that employee).
- (4) If 15 or more employees are likely to become excess:
 - (a) FPC will not invite employees to express interest in voluntary redundancy or advise an employee that they is excess within one month (or such lesser period as agreed) after advising employees that they are likely to become excess; and
 - (b) FPC will also, having regard to section 531 of the FW Act, invite each trade union

of which any of the employees is a member, and which represents the industrial interest of such of those employees as are members, to participate in the discussions referred to in subclause (2).

- (5) If FPC declares 15 or more employees excess, they will advise Centrelink of the proposed redundancies.

110 Voluntary redundancy

- (1) If FPC invites an excess employee to do so, the employee will have one month to elect in writing for voluntary redundancy. FPC will not give notice of termination before the end of that period or until such election is received, whichever is earlier.
- (2) Within the month provided for under subclause (1), the employee must be given information on:
 - (a) the amount of their severance pay, pay in lieu of notice and paid up leave credits;
 - (b) the amount of their accumulated superannuation contributions;
 - (c) options open to them concerning superannuation; and
 - (d) the taxation rules applying to the various payments.
- (3) An excess employee who declines an offer of voluntary redundancy or who does not elect for voluntary redundancy within the one month period will immediately be referred to a provider of redeployment services.

111 Period of notice

- (1) If the employee agrees to their employment being voluntarily terminated, FPC can approve the termination of the employee's employment and, upon approval, will give the required notice of termination. The period of notice will be 4 weeks (or 5 weeks for an employee aged over 45 with at least 5 years of continuous service).
- (2) If an employee retires or the employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice for the unexpired portion of the notice period.

112 Severance benefit

- (1) An employee whose employment is terminated under subclause 111(1) is entitled to be paid an amount equal to 2 weeks salary for each completed year of service, plus a pro rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the NES.
- (2) The minimum amount payable will be 4 weeks salary and the maximum will be 48 weeks salary.
- (3) If an employee has less than 24 years full-time service, the severance benefit will be calculated on a pro rata basis for any period when the employee has worked part-time hours during the period of service.
- (4) Subject to subclauses (5), (6) and (7), *service* for severance pay purposes under this clause means:
 - (a) service in OPC;
 - (b) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - (c) service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth does not have a

- controlling interest) which is recognised for long service leave purposes;
 - (d) service with the Australian Defence Forces;
 - (e) service in the APS immediately preceding deemed resignation due to marriage under section 49 of the *Public Service Act 1922* as in force before 18 November 1966, if the service has not previously been recognised for severance pay purposes; and
 - (f) service in another organisation if:
 - (i) an employee was transferred from the APS to that organisation with a transfer of function; or
 - (ii) an employee engaged by that organisation on work within a function is engaged as a result of the transfer of that function to the APS; and such service is recognised for long service leave purposes.
- (5) Any period of service which ceased:
- (a) through termination on any of the following grounds or on a ground equivalent to any of the following grounds:
 - (i) the employee lacked, or had lost, an essential qualification for performing their duties;
 - (ii) non-performance, or unsatisfactory performance, of duties;
 - (iii) inability to perform duties because of physical or mental incapacity;
 - (iv) failure to satisfactorily complete an entry level training course;
 - (v) failure to meet a condition imposed under subsection 22(6) of the PS Act;
 - (vi) a breach of the Code of Conduct;
 - (b) under the *Public Service Act 1922* on a ground equivalent to a ground set out in paragraph (a);
 - (c) through voluntary retirement at or above the minimum retiring age applicable to the employee; or
 - (d) with the payment of redundancy benefit, a similar payment or an employer-financed retirement benefit;
- will not count as service for severance pay purposes.
- (6) Absences from work which do not count as service for any purpose will not count as service for severance pay purposes.
- (7) For earlier periods of service to count there must be no breaks between the periods of service, except if the break in service is less than 1 month and an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer.

113 Rate of payment—severance benefit

For the purpose of calculating any payment under this Part, **salary** includes:

- (a) the employee's salary;
- (b) higher duties allowance, if the employee has been receiving higher duties allowance for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination; and
- (c) other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

114 Retention and redeployment

- (1) Unless the employee agrees, an excess employee's employment will not be terminated until the following retention period has elapsed:
 - (a) if an employee has 20 or more years of service or is over 45 years of age—13 months;
 - (b) in any other case—7 months.

If an employee is entitled to a redundancy payment under the NES, the retention period will be reduced by an amount equivalent to an employee's redundancy entitlement under the NES on termination.

- (2) The retention period commences on the earlier of the following:
 - (a) the day the employee is advised in writing by FPC that they is an excess employee;
 - (b) one month after the day on which FPC invites the employee to elect to have their employment terminated.
- (3) During the retention period, FPC:
 - (a) will continue to take reasonable steps to find alternative employment for the excess employee; and
 - (b) may, with 4 weeks' notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee.

If an excess employee's classification is reduced before the end of the retention period, the employee will continue to be paid at the previous classification for the balance of the retention period.

- (4) The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment and FPC may approve the payment of such assistance as they thinks reasonable.
- (5) The retention periods specified in subclause (1) and the notice period specified in subclause (3) will be extended by any periods of personal/carers leave supported by medical evidence which is taken during these periods.
- (6) If:
 - (a) an excess employee has been receiving redeployment assistance from a provider of redeployment services for 2 months;
 - (b) the provider of redeployment services certifies that there is no reasonable prospect of redeployment in the APS; and
 - (c) FPC believes there is insufficient productive work available for an excess employee during the remainder of the retention period;

FPC may, with the agreement of the employee, terminate the employee's employment and pay the balance of the retention period, reduced by an amount equivalent to the employee's entitlement to redundancy pay under the NES, as a lump sum and this payment will be taken to include the payment in lieu of notice of termination.

115 Termination

- (1) FPC may terminate the employment of an excess employee at the end of the retention period.
- (2) An excess employee's employment will not be terminated if:
 - (a) the employee has not been invited to elect to be voluntarily terminated under subclause 110(1); or
 - (b) the employee has elected to have their employment voluntarily terminated but FPC

has refused to approve such termination.

- (3) An excess employee will be given 4 weeks notice (or 5 weeks notice for an employee over 45 with at least 5 years of continuous service) if it is proposed that the employee's employment be terminated. This notice period will, as far as practicable, be served concurrently with the retention period.

116 Accelerated separation arrangements for redundancy purposes

- (1) OPC may offer an accelerated separation option to employees who have been invited to express interest in voluntary redundancy. In addition to the severance benefit, this option entitles an employee:
 - (a) who has been identified as being eligible to be made an offer of voluntary redundancy;
 - (b) who agrees to termination of employment; and
 - (c) whose employment is terminated within 14 days after receiving the offer;to an amount of 10 weeks salary (or 11 weeks salary for an employee at least 45 years of age with at least 5 years continuous service).
- (2) The payments made under this clause are inclusive of any award or statutory entitlement to payment in lieu of notice.
- (3) If an employee has elected not to accept an accelerated separation offer, the other provisions of this Part will then apply.

117 Termination of employment—review mechanism

Subclauses 118(1) and (2) provide for the review mechanisms for decisions related to termination of employment.

Division 3—Termination of employment

118 Termination of employment

- (1) The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has:
 - (a) under Division 11 of Part 2-2 of the FW Act;
 - (b) under Part 3-2 of the FW Act;
 - (c) under Division 2 of Part 3-6 of the FW Act;
 - (d) under other Commonwealth laws (including the Constitution); and
 - (e) at common law.
- (2) Termination of employment, or a decision to terminate employment, cannot be reviewed under the procedures set out in clause 102 of this agreement.
- (3) Nothing in this agreement prevents FPC from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with section 123 of the FW Act. However, FPC must comply with the procedures established by FPC under section 15 of the PS Act for determining whether an employee has breached the Code of Conduct.

Attachment A—Salaries and allowances

1 Salaries

Table A—Salaries payable under this Agreement—employees other than drafters					
Column 1 Broadband and classification	Column 2 Pay points	Column 3 Salary as at 31 August 2023	Column 4 From the later of commencement of agreement or 14 March 2024	Column 5 From 13 March 2025	Column 6 From 12 March 2026
OPC Broadband A APS Level 1	APS1.1	\$51,784	\$53,855	\$55,901	\$57,802
	APS1.2	\$53,520	\$55,661	\$57,776	\$59,740
	APS1.3	\$54,970	\$57,169	\$59,341	\$61,359
	APS1.4	\$57,230	\$59,519	\$61,781	\$63,882
OPC Broadband A APS Level 2	APS2.1	\$58,601	\$60,945	\$63,261	\$65,412
	APS2.2	\$60,215	\$62,624	\$65,004	\$67,214
	APS2.3	\$61,798	\$64,270	\$66,712	\$68,980
	APS2.4	\$63,402	\$65,938	\$68,444	\$70,771
	APS2.5	\$64,987	\$67,586	\$70,154	\$72,539
OPC Broadband A APS Level 3	APS3.1	\$66,748	\$69,418	\$72,056	\$74,506
	APS3.2	\$68,484	\$71,223	\$73,929	\$76,443
	APS3.3	\$70,223	\$73,032	\$75,807	\$78,384
	APS3.4	\$72,043	\$74,925	\$77,772	\$80,416
OPC Broadband B APS Level 4	APS4.1	\$74,393	\$77,369	\$80,309	\$83,040
	APS4.2	\$76,760	\$79,830	\$82,864	\$85,681
	APS4.3	\$78,756	\$81,906	\$85,018	\$87,909
	APS4.4	\$80,775	\$84,006	\$87,198	\$90,163
OPC Broadband B APS Level 5	APS5.1	\$82,975	\$86,294	\$89,573	\$92,618
	APS5.2	\$85,579	\$89,002	\$92,384	\$95,525
	APS5.3	\$87,989	\$91,509	\$94,986	\$98,216
OPC Broadband B APS Level 6	APS6.1	\$89,620	\$93,205	\$96,747	\$100,036
	APS6.2	\$91,852	\$95,526	\$99,156	\$102,527
	APS6.3	\$94,366	\$98,141	\$101,870	\$105,334
	APS6.4	\$99,110	\$103,074	\$106,991	\$110,629
	APS6.5	\$102,949	\$107,067	\$111,136	\$114,915
Executive Level 1	E1.1	\$113,889	\$118,445	\$122,946	\$127,126
	E1.2	\$123,059	\$127,981	\$132,844	\$137,361
	E1.3	\$131,006	\$136,246	\$141,423	\$146,231
	E1.4	\$138,290	\$143,822	\$149,287	\$154,363
Executive Level 2	E2.1	\$131,006	\$136,246	\$141,423	\$146,231
	E2.2	\$138,290	\$143,822	\$149,287	\$154,363
	E2.3	\$148,726	\$154,675	\$160,553	\$166,012
	E2.4	\$153,749	\$159,899	\$165,975	\$171,618
	E2.5	\$157,718	\$164,027	\$170,260	\$176,049

Table B—Salaries payable under this Agreement—drafters

Column 1 Broadband and local designation	Column 2 Pay points	Column 3 Salary as at 31 August 2023	Column 4 From the later of commencement of agreement or 14 March 2024	Column 5 From 13 March 2025	Column 6 From 12 March 2026
Assistant Parliamentary Counsel Grade 1 (APC 1)	APC1.1 (APS 3.3)	\$70,223	\$73,032	\$75,807	\$78,384
	APC1.2 (APS 4.3)	\$78,756	\$81,906	\$85,018	\$87,909
	APC1.3 (APS 5.2)	\$85,579	\$89,002	\$92,384	\$95,525
	APC1.4 (APS 6.1)	\$89,620	\$93,205	\$96,747	\$100,036
	APC1.5 (APS 6.3)	\$94,366	\$98,141	\$101,870	\$105,334
	APC1.6 (APS 6.5)	\$102,949	\$107,067	\$111,136	\$114,915
	APC1.7 (APS 6.6)	\$113,889	\$118,445	\$122,946	\$127,126
	APC1.8 (APS 6.7)	\$123,059	\$127,981	\$132,844	\$137,361
	APC1.9 (APS 6.8)	\$131,006	\$136,246	\$141,423	\$146,231
Assistant Parliamentary Counsel Grade 2 (APC 2)	APC2.1 (E1.1)	\$113,889	\$118,445	\$122,946	\$127,126
	APC2.2 (E1.2)	\$123,059	\$127,981	\$132,844	\$137,361
	APC2.3 (E1.3)	\$131,006	\$136,246	\$141,423	\$146,231
	APC2.4 (E1.4)	\$138,290	\$143,822	\$149,287	\$154,363
Assistant Parliamentary Counsel Grade 3 (APC 3)	APC3.1 (E2.1)	\$131,006	\$136,246	\$141,423	\$146,231
	APC3.2 (E2.2)	\$138,290	\$143,822	\$149,287	\$154,363
	APC3.3 (E2.3)	\$148,726	\$154,675	\$160,553	\$166,012
	APC3.4 (E2.4)	\$153,749	\$159,899	\$165,975	\$171,618
	APC3.5 (E2.5)	\$157,718	\$164,027	\$170,260	\$176,049

2 Allowances

Table C—Workplace responsibility allowances			
Per fortnight	Rate from commencement	Rate from 13 March 2025	Rate from 12 March 2026
Health and Safety Representative (HSR)	\$36.78	\$38.18	\$39.48
Mental Health First Aid Officer	\$36.78	\$38.18	\$39.48
Emergency Warden (EW)	\$36.78	\$38.18	\$39.48
Workplace Support Officer (WSO)	\$36.78	\$38.18	\$39.48
First Aid Officer (FAO)	\$36.78	\$38.18	\$39.48

Table D—Community language allowance rates			
Standard	Rate from commencement	Rate from 13 March 2025	Rate from 12 March 2026
An employee who has adequate language skills, as determined by an individual or body approved by FPC, for simple communication	\$1,435 per annum	\$1,490 per annum	\$1,541 per annum
An employee who is certified by the National Accreditation Authority for Translators and Interpreters (NAATI) as a Translator or Interpreter at any level; or is assessed to be at the equivalent level by an individual or body approved by FPC	\$2,870 per annum	\$2,979 per annum	\$3,080 per annum

Table E—Overtime meal allowance			
Per occasion	Rate from commencement	Rate from 13 March 2025	Rate from 12 March 2026
Overtime meal	\$36.78	\$38.18	\$39.48

Attachment B—Supported Wage System (SWS)

1 Supported wage system

This schedule defines the condition which will apply to employees because of the effects of a disability and who are eligible for a supported wage under the terms of this agreement.

2 Definitions

- (1) In this schedule:

approved assessor means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system.

assessment instrument means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

Disability Support Pension means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme.

relevant minimum wage means the minimum wage prescribed in this agreement for the class of work for which an employee is engaged.

Supported Wage System (SWS) means the Commonwealth Government system to promote employment for people who cannot work at full agreement wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the JobAccess website (www.jobaccess.gov.au).

SWS wage assessment agreement means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate.

Eligibility criteria

- (3) Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class for which the employee is engaged under this agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
- (4) The schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this agreement relating to the rehabilitation of employees who are injured in the course of their employment.

Supported wage rates

- (5) Employees to whom this clause applies shall be paid the applicable percentage of the relevant minimum wage according to the following schedule:

Table 1: Applicable percentage of relevant minimum wage paid to applicable employees

Assessed capacity	Percentage of agreement rate
10 per cent	10 per cent
20 per cent	20 per cent
30 per cent	30 per cent
40 per cent	40 per cent
50 per cent	50 per cent
60 per cent	60 per cent
70 per cent	70 per cent
80 per cent	80 per cent
90 per cent	90 per cent

provided that the minimum amount payable to an employees to whom the SWS applies is not less than the amount prescribed in the National Minimum Wage Order.

Note: The minimum amount payable is reviewed every year in July.

- (7) Where an employee's assessed capacity is 10 per cent, they must receive a high degree of assistance and support.

Assessment of capacity

- (8) For the purposes of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and the employee, and if the employee so desires, a union which the employee is eligible to join.
- (9) Assessment made under this schedule must be documented in a SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

Lodgement of SWS wage assessment agreement

- (10) All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.
- (11) All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the agreement is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

Review of assessment

- (12) The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

Other terms and conditions of employment

- (13) Where an assessment has been made, the applicable percentage will apply to the relevant wage rate only. Employees covered by the provisions of the schedule will be entitled to the same terms and conditions of employment as all other workers covered by this agreement paid on a pro rata basis.

Workplace adjustment

- (14) An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other workers in the area.

Trial period

- (15) In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a Trial Period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- (16) During that Trial Period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- (17) The minimum amount payable to the employee during the Trial Period must be no less than the current weekly rate, as determined by the Fair Work Commission.
- (18) Work trials should include induction or training as appropriate to the job being trialled.
- (19) Where the employer and employee wish to establish a continuing employment relationship following the completion of the Trial Period, a further contract of employment will be entered into based on the outcome of assessment under subclauses (8) and (9) of this Schedule.